

**PERSONNEL POLICIES AND PROCEDURES
TOWN OF LANESBOROUGH, MASSACHUSETTS
ADOPTED MARCH 23, 1998
AMENDED 12/5/2011**

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I. GENERAL PROVISIONS

A. Authority

The Board of Selectmen of the Town of Lanesborough, Massachusetts shall promulgate personnel policies and procedures ("Procedures") defining the rights, benefits and obligations of employees.

B. Purpose

The purpose of these regulations is to formally establish the policies and procedures governing employment with the Town of Lanesborough and to establish a system of personnel administration based upon merit principles that ensures a uniform, fair and consistent administration of said personnel policies and procedures.

C. Application

The Personnel Policies and Procedures for the Town of Lanesborough, Massachusetts shall apply to all full and part-time employees of the Town of Lanesborough. For unionized and/or contracted personnel, where there is inconsistency between these Procedures and the current collective bargaining or contract agreement, the agreement shall supersede. These regulations do not apply to elected officials or other employees who may be specifically exempt by law. Nothing in these regulations shall be construed to limit any rights of employees pursuant to Chapter 150E of the Massachusetts General Laws.

D. Administration

The Town Administrator, acting on the authority of the Board of Selectmen, shall be responsible for the administration of the policies and procedures presented herein. These Procedures will be accessible to the public on Lanesborough's web site, and in written form from the Administrator or his designee. The responsibilities inherent in the administration of these policies and procedures shall include:

- a. To maintain an effective personnel system, monitor the effectiveness of policies, procedures and practices.
- b. To ensure that recruitment, selection, appointment and removal of employees is consistent with the personnel policies and procedures of the Town.
- c. To ensure that the Town adheres to its Equal Employment Opportunity/Affirmative Action Program as presented in Section XII.
- d. To maintain a centralized personnel record keeping system.

E. Rules of Interpretation

These regulations are intended to be in accordance with all applicable State and Federal Laws. In the event of any conflict, the applicable State and Federal Law shall apply.

F. Definitions

"Town" shall mean the Town of Lanesborough.

"Board" shall mean the Board of Selectmen for the Town.

"Employee" shall mean an employee, or in some cases appointee, of the Town.

"Contracted Employee" means an employee who has special terms of employment agreed to in a written agreement between the individual and the Board of Selectmen.

"Town Administrator" or "Administrator" shall mean the Town Administrator for the Town.

"Full-time employee" shall mean an employee regularly scheduled to work a minimum of twenty (20) hours or a maximum of forty (40) hours per week, as prescribed by their position.

"Permanent Part-time employee" shall mean an employee regularly scheduled to work less than twenty (20) hours per week. Only employees working a regular set schedule of a minimum of 20 hours per week shall be entitled to sick leave, vacation leave, holidays, the extended accident and sick plan, bereavement leave, military leave, jury leave, maternity leave, leaves of absence and other benefits.

"Intermittent Part-time employee" shall mean an employee that works on an irregular basis, determined by the workload in the department, throughout the year.

"Temporary/seasonal employee" shall mean an employee retained for a fixed period of time not to exceed twelve (12) weeks to replace employees absent for extended periods or under special conditions caused by increased work load and shall not be entitled to benefits.

"Appointing Authority" shall mean the Board of Selectmen.

"Department Head" shall mean the officer responsible for supervising a department's operations and activities.

"Continuous service" shall mean employment uninterrupted except by authorized leaves.

"Break in employment" occurs in the following instances:

- If an employee terminates employment with the Town of his/her accord, or;
- If an employee is discharged, or;
- If an employee is absent in excess of three (3) consecutive working days without obtaining approval for such absence, or;
- If, after a layoff, an employee does not return to work within ten (10) days after receipt of notice from the Town that he/she is rehired, or;
- An employee shall be absent due to a layoff, or;
- Any other separation from employment.

G. Adoption and Amendment

Policies and Procedures shall be adopted or amended as follows: Any proposed additions or amendments shall be submitted to the Town Administrator in writing. The Board of Selectmen shall hold a public meeting on any proposed new policies and procedures or amendments to policies and procedures. Notice of the public meeting shall be posted at least ten (10) days prior in prominent work locations, on the Town's web site, and in the Lanesborough Post Office. Copies of the proposed new edition of the Policies and Procedures and a summary of changes will be available at Town Hall from the Town Administrator or his designee.

The Board of Selectmen shall conduct a public meeting relative to the proposed policies or procedures and purpose of such policies and procedures at the public meeting. The Town Administrator will provide the Board of Selectmen with his/her recommendation. The Board of Selectmen shall consider the comments and such other materials which may have been presented. A majority of the Board shall then ratify or disapprove the proposal, and notify all employees in writing. The decision of the Board of Selectmen shall become effective immediately.

H. Severability

The provisions of these Personnel Policies and Procedures are severable. If any section herein is held to be invalid, the remaining provisions of the policies and procedures shall not be affected.

II. RECRUITMENT

A. Hiring Procedures

The Town of Lanesborough seeks to hire or promote the individual(s) best qualified for all vacant positions. Preferential hiring on the basis of minority status or gender is unlawful.

To assure complete conformance with collective bargaining agreements, affirmative action programs and state and federal law, the following procedures have been adopted:

- a. The employment function is centralized in the Town Administrator's office on behalf of the Board of Selectmen
- b. Once the requisition for a new or vacant position has been approved by the Board of Selectmen, a job posting will be originated by an authorized representative of that office.
- c. The job opening will be posted in a conspicuous location in the Town Hall, 83 North Main Street, Lanesborough, Massachusetts, at the Lanesborough Post Office, and on the Town's web site for a minimum period of five (5) working days.
- d. The Town Administrator may also place the appropriate advertisement in local newspapers and other media sources at least 7 days in advance of the closing date for applications. Posting of all positions will also be distributed to concerned agencies who are resources for employees from under-represented groups. The Town Administrator will, as Affirmative Action Officer, maintain an active listing of recruiting sources.
- e. All candidates applying for employment in the Town shall complete an official Employment Application form (see **Attachment A**) and return the form to the appointing authority prior to the end of the working day of the closing date specified for the position announcement.
- f. The Board may require an examination as one part of the selection process. Examinations may be written, oral, practical, physical or any combination thereof and shall be relevant to the requirements of the position.

The Board of Selectmen, shall be responsible for the recruitment and selection of personnel. The qualifications, classifications and salary range for positions shall be established by such classification and compensation plans or methods as may be approved by the Board of Selectmen.

B. Screening/Interviewing

The appointing authority/department head will screen resumes and applications based on criteria established prior to receipt of resumes. Appointing authorities and department heads should follow standard procedures when screening resumes and conducting interviews. This section will apply to all employees, except persons employed by the Town in emergencies. The following are general guidelines:

- a) Devise standard selection questions which are not gender or race biased, and use the same questions for all candidates;
- b) Screen resumes for minimum entrance requirements;
- c) Select candidates for interview, and send a letter to candidates not selected for interview;
- d) Notify successful candidates of selection (by telephone and/or mail) and then interview those candidates (if interview conducted by Town Boards and Committees it is subject to the provisions of the Open Meeting Law);
- e) Select candidates for final (or second) interview, contact references, and conduct final interviews;
- f) Select final candidate. Review offer to candidate with Board of Selectmen and Town Administrator to secure approval for starting compensation amount;
- g) Offer the candidate employment in writing; and
- h) Notify unsuccessful candidates by telephone or by mail.

C. Employment Applications

All applicants for employment will complete an official employment application form that shall be retained by the appointing authority. The form will include a statement signed by the applicant certifying to the truthfulness and accuracy of all information provided on the form. Resumes may be accepted as supplements to the application, but not as substitutes. All employees hired after November 6, 1986, are required to provide, prior to employment, documentation

which indicates their United States citizenship, or if not citizens, that they are legally authorized to work in the United States.

D. Reference and Background Checks

It is the policy of the Town to check references of all potential employees. It is the responsibility of the appointing authority to conduct reference checks on the final candidates they are considering to hire. The job applicant will be asked to provide at least three references from previous employment. The appointing authority/designee will make at least one attempt to contact each reference, and keep careful written records of having done so. The appointing authority/designee shall not request any information about a job applicant from a previous employer, family member, or other source that it may not itself request of the job applicant.

Candidates should be informed that reference checking may be extended to their current and any or all of their previous employers, even though they may not be on their reference list. (Interviewers will be sensitive to coordinating the checking of the current employer's reference with the candidate so as not to jeopardize their current position). If a candidate tells the interviewer not to contact a specific person or employer, we will respect that request. The candidate is not required to provide this authorization, but checking references should be considered a very important part of the selection process and the appointing authority should be very cautious about hiring a new employee who will not provide adequate reference-checking authorization.

Before making reference calls, the appointing authority/designee will prepare a set of questions that are related to the position and help with the hiring decision. The appointing authority should describe to the reference the position that the candidate has applied for and describe what he/she is looking for in the ideal candidate. When calling a reference, the interviewer will introduce him/herself, stating that s/he is checking the reference on (name), a candidate for (state the position) and we have the candidate's permission to talk with the reference. If they refuse to provide a reference, we should ask them what their policy is on providing references for current or past employees to assess whether the issue is their blanket policy on providing references or the fact that they will not provide a reference for this particular employee (or former employee). Questions regarding attitude, skills, experience, and performance should be asked.

Reference check questions should be directly related to the duties and performance of the person's job. We do not contact "character references" or references who have not worked with the candidate. Questions related to protected class status or disability claims should be avoided.

While the employer has the right to check employment references, state and federal laws protect candidates and employees from unreasonable intrusions by prospective employers into their private, non-job related activities and status. (There are a few exemptions to this rule, for example, law enforcement candidates).

E. Offer of Employment

An appointing authority shall provide an offer of employment in writing to any prospective employee that contains the rate of pay, hours of work, benefit entitlements, an outline of these Personnel Policies, and other relevant information. If the employee is to work under a special contract, this must be attached to the offer letter and must be signed and delivered to the Town Administrator prior to the start of employment. A copy of such offer of employment should be provided to the Town Administrator. Each new employee shall be directed to consult with the Town Administrator during the first week of employment to ensure compliance with all legal

requirements and facilitate enrollment in health insurance plans and the retirement system, as appropriate.

III. WORK SCHEDULE

- A. Unless otherwise provided by, or agreed to by the appointing authority, the work week for all employees except the Highway Department and Police Department, shall be from 8:00 a.m. to 1 p.m., Mondays through Thursdays. The reportable work-week for the Highway Department shall be 12:00 a.m. on Saturday through Friday at 11:59 p.m. The work-week for the Police Department shall be as prescribed by the Chief of Police.
- B. In the event manpower shortages are encountered due to vacation time, holiday time, sick leave, or other circumstances, the appointing authority may, at its discretion, require employees to work such additional hours and for such compensations as may be appropriate.
- C. Appointed personnel who are required to work additional hours to attend meetings, conferences or for any other legitimate purpose, may take time off on a 1 to 1 ratio provided that time off is approved in advance by the department head and that any time taken occurs within the same pay period.
- D. Snow Days—in the event that Lanesborough Elementary School is closed due to snow or other weather-related factors, employees who work at Town Hall will also be given the day off, with pay, or if the school simply has a delayed opening, Town Hall employees may arrive at work late and will be credited with the time missed as if it were worked. Members of the Police and Highway Departments do not have these “automatic” weather-related benefits and, when weather is an issue, should check with their supervisors regarding schedule adjustments.

IV. COMPENSATION

A. Annual Compensation

Annual Compensation for employees is subject to an appropriation by the Town Meeting and the establishment of a pay base rate by the appointing authority. Employees shall be paid on a bi-weekly basis.

B. Overtime

Town employees may be called upon and required to work overtime if in the opinion of the department head it is necessary to meet the demands of the job being performed.

Overtime will be paid to hourly employees who work more than forty (40) hours a week (the work-week begins on Sunday and ends on Saturdays). Overtime compensation shall be paid at a rate of one and one-half the current base rate for hours worked, unless otherwise negotiated and agreed to by contract. Daily overtime may be compensated with equivalent time off during the same week, with details worked out between the employee and his/her supervisor.

Certain paid activities are not considered work time and are not counted as hours worked in calculating overtime. These include:

- a. Military Reserve Training
- b. Bereavement Leave
- c. Workers' Compensation time off work
- d. Vacation Days
- e. Sick Days
- f. Jury Duty
- g. Holiday Pay

C. Review/adjustment of Compensation

During February or March each year, supervisors and Selectmen will review whether certain individuals or broader groups of non-union town employees should be considered for compensation adjustments in the coming fiscal year. These considerations will incorporate the town's likely financial situation, recent employee performance evaluations, longevity, and other factors. Employees may, or may not be asked to participate in these considerations, but they will be advised of the general outcome prior to the town's annual meeting, and will be advised of individual impact immediately following town meeting. Any adjustments will be implemented beginning July 1 following the town meeting. Compensation adjustments for employees represented by bargaining units will be made according to the terms of each unit's contract.

V. BENEFITS

A. Vacation

All full-time employees are eligible for vacation leave. Employees covered by collective bargaining agreements and/or contracts shall have vacation accumulation and usage as outlined in those agreements. The amount of vacation leave shall normally be determined by the length of continuous employment with the Town according to the following schedule:

- Two work weeks, after first full year (one week of this may be used after 6 months)
- Three work weeks, after five full years
- Four work weeks, after fifteen years

Vacation must be taken during the fiscal year and shall not be accumulated year-to-year unless the Board, in writing, grants an employee the opportunity to take unused vacation time within sixty (60) days of the new fiscal year. Vacations shall be scheduled with the prior approval of the employee's department head, or, in the case of department heads, shall be scheduled with the prior approval of the Select Board and the Town Administrator. Employees are expected to complete and submit to their department head or Town Administrator the Vacation Request form (See **Attachment B**) at least two weeks prior to their planned absence.

Employees entitled to more than two (2) weeks vacation leave may generally take only two (2) weeks consecutively. However, with the prior approval of the employee's department head, or, in the case of department heads with the prior approval of the Select Board and Town Administrator, exceptions may be made to allow the use of longer periods of time.

B. Sick Leave

All full-time (defined as a "minimum of twenty (20) hours and a maximum of forty (40) regular hours per week"), non-"contract" employees with a minimum of six months of continued service shall earn 1.25 days of family sick leave per month. New employees may accrue, but not use, sick leave until their six (6) month period has been satisfactorily completed. An employee shall be permitted to earn a maximum of fifteen (15) days per year. Any time over three (3) days consecutive days used, either for self or family, requires a notice from a doctor. ("Family" means self, spouse or children.) Sick time may be accrued continuously for a long-term illness or injury.

Employees shall NOT be paid in compensation for sick time not taken at the time the employee leaves the employment of the Town.

Sick leave will commence on the date and time of notification of the employee's sickness or injury. Notification shall be made by the employee, a family member, or the employee's physician to the department head, or, if necessary, Town Administrator.

Notification should be given as soon as possible, but in any case, within one (1) hour after the regularly scheduled starting time of the employee in order to entitle the employee to sick leave credit

for that day. Exceptions may be made in the case of an emergency. Notification should include the general nature of the illness or injury, length of anticipated absence, and expected date of return.

C. Notification of Absences

Town employees who must take time off from work for any reason are expected to provide as reasonable notice as possible to their department head and/or the Town Administrator, so that coverage can be arranged for the absence. Where appropriate, the employee should use a Personal Time, Vacation, or other form to make the request/provide notice of an absence.

Employees who are unable to come to work due to illness or unanticipated emergency are expected to call in no later than one (1) hour before the start of their work period.

Employees who do not report a current absence within three days are assumed to have voluntarily left the employ of the Town and termination may be processed, effective on the last day worked.

D. Holidays

The Town shall recognize as holidays those days so designated by the Secretary of State for the Commonwealth of Massachusetts, and will observe said holidays on the same day the Commonwealth observes them. Recognized holidays include the following:

| | | |
|------------------------|------------------|------------------|
| New Year's Day | Memorial Day | Veteran's Day |
| Martin Luther King Day | Independence Day | Thanksgiving Day |
| President's Day | Labor Day | Christmas Day |
| Patriot's Day | Columbus Day | |

When a holiday falls on a non-workday, the Select Board will designate a workday to be used as the day off for all employees.

E. Personal Days

Any full-time non-“contract” employee with one year of continued service shall be permitted to receive three days for personal time. A "personal day" is to be used by the employee to conduct personal business he/she is unable to otherwise conduct except during those hours of the normal business day.

Personal days are to be used for other than personal illness or vacation and cannot be used to extend vacation or holiday periods except in an emergency. Unused personal days cannot be carried forward, nor accumulated year-to-year.

The employee must provide reasonable notice to his/her department head, fill out and submit a Personal Time Request form (see **Attachment C**), and must receive permission for such leave prior to using this benefit.

F. Bereavement Leave

In the event of the death of a spouse, child, mother, father, sister, brother, mother-in-law, father-in-law, grandmother, grandfather, stepchild, stepparent or significant other, a non-contract employee will be granted up to three (3) days time off, for which he/she will be paid his/her regular compensation. Such leave shall not be required immediately after death, but may be granted commensurately with the funeral and related necessary procedures.

G. Family and Medical Leave Act—See Appendix A

H. Massachusetts Maternity Leave Act—See Appendix B

I. Small Necessities Leave Act—See Appendix C

J. Jury Duty

All employees will be granted leave to fulfill required jury duty. Employees shall be paid their regular salary (excluding overtime), less the jury fees (exclusive of travel allowances) received, during the period required for the jury duty. It is the employee's responsibility to present to his/her

supervisor written evidence of fees received. As a condition to receiving payment from the Town, an employee must report to work if during such duty he/she is discharged for the day or major portion of the day during regular work hours.

K. Military Leave

An employee shall be entitled to leave of absence during the time of compulsory service in the armed forces of the Commonwealth, in a reserve capacity, or during his/her annual tour of duty not exceeding seventeen (17) days as a member of a reserve component of the armed forces of the United States. The employee shall receive the difference between his/her regular pay as an employee and his/her military pay for the period of the leave.

Each employee is responsible for notifying his/her department head of the date he/she is leaving for military service and providing written proof from military or selective service officials indicating the date of his/her required departure and required length of service.

Each employee is responsible for providing evidence of compensation for military service.

During the leave, sick and vacation leave will continue to accrue to the employee's account.

The period of military leave shall be included in the employee's time of continuous service.

If the employee's military leave exceeds seventeen (17) days, the employee may apply all or part of any accrued vacation leave to the period of military leave remaining.

L. Leave of Absence

The Town Administrator, through the Board of Selectmen, may grant leaves of absence without pay to all employees who have completed twelve (12) months of continued service. In reviewing requests, consideration shall be given to:

- The nature of the reason for the request;
- The employee's work record, and
- The impact the employee's absence will have on the Town and whether a suitable temporary replacement is needed and available.

In addition to the provisions of this section of Procedures, the Town respects and offers special leave provisions under the Family and Medical Leave Act (see **Appendix A**), the Massachusetts Maternity Leave Act (see **Appendix B**), and the Small Necessities Leave Act (**Appendix C**). Where there are inconsistencies between this section and the Appendices, the latter shall supersede.

Leave will not be granted if there is any indication that the employee plans to seek or accept work elsewhere during the leave of absence. The leave will immediately be canceled if the employee accepts a position elsewhere.

An employee requesting a leave of absence shall request such leave in writing through his/her department head. If the leave would be of two weeks or less, the employee may incorporate a request that his/her regular pay be continued, provided that the employee include in the request a plan for making up the time. The department head will forward the request to the Town Administrator along with a recommendation regarding appropriate action. The Town Administrator will review the request and his/her recommendation with the Board of Selectmen. If regular pay is continued during the leave and the employee does not make up the time within 90 days to the satisfaction of the department head and Town Administrator, s/he will take the steps necessary to deduct the missing time from the employee's regular pay.

Employees unable to work due to sickness or injury shall use other accrued or available leave in accordance with the provisions of this policy.

The pay of an employee returning from a leave of absence shall be at the same level as he/she was receiving immediately prior to the leave, if the employee is returning to the same position. In cases of military leave, the employee shall be restored to the same position.

Unless time granted for a leave is made up to the satisfaction of the department head and Town Administrator, sick and vacation leave will not accrue to the employee's account during leaves of absence, however, the period of a leave shall otherwise be included in an employee's time of continuous service.

During leaves of absence, the Town will continue to pay its share of an employee's health and life insurance premiums for the first thirty (30) days of the leave. After this period the employee has the option of paying the full premium cost of his/her insurance, or dropping the insurance coverage. If the employee chooses to pay the full premium, he/she must notify the Treasurer to arrange payment procedures. The employee must pay the Town for his/her share of health and life insurance premiums one month in advance of coverage.

In cases of leave for service during a national emergency, the Town will continue to pay its share of an employee's health and life insurance premiums for the length of the service.

During leaves of absence, the rules and regulations of the Berkshire County Retirement System apply concerning an employee's pension rights.

Notwithstanding contrary provisions elsewhere in these Procedures, if an employee's absence from work is due to a documented workplace injury covered by workman's compensation insurance benefits, all other employment benefits, including accruals will be honored by the Town.

M. Absence Without Leave

An employee who is absent shall report the reason to his/her department head in accordance with this policy. An unauthorized absence not reported in a timely manner shall be considered absence without leave, and no compensation shall be made nor benefits accrued for the period of the absence. Additionally, such an absence may result in disciplinary action against the employee.

N. Health Insurance

The Town will participate in providing health insurance coverage for any employee and Town official who requests such coverage and regularly works a minimum of twenty (20) hours per week with fixed duties. The terms of the Town's participation in health insurance for its employees are often subject to Massachusetts regulations or separate agreements and must be regularly reviewed by employees. Notice of changes in the Town's health insurance participation or employee's obligations will be posted in advance on the Town's website and in appropriate locations in Town Hall. See **Attachment D** or the Town Administrator for current details.

Seasonal or temporary help shall not be eligible for health insurance benefits.

VI. PERSONNEL RECORDS

The Town Treasurer shall be responsible for establishing and maintaining personnel records as may be required by law, and as necessary for effective personnel management. All employees shall comply with and assist in furnishing records, reports, and information as may be requested.

An individual personnel file for each employee will be established and maintained, which may include but not be limited to the following:

1. The employment application or resume.
2. A copy of any documented reference checks and background investigation reports.
3. A copy of any physical and psychiatric examination reports and health reports as necessary for performance of duties.
4. A report of all personnel actions reflecting the original appointment, promotion, demotion, reassignment, transfer, separation or layoff. History of employment and correspondence directly related to the employee's past employment record, reclassification or changes in the employee's rate of pay or position title, commendations, records of disciplinary action, training records, performance evaluation and other records that may be pertinent to the employee's employment record.
5. Correspondence between the employee and the employer.
6. Educational credentials obtained since appointment.

Personnel records shall be considered to be confidential and access to records shall, unless circumstances dictate otherwise, be limited to the Town Administrator, Treasurer, Board of Selectmen, an employee's department head and such other persons designated by the Board of Selectmen. Any employee may upon request to the Town Administrator have access to review his/her personnel file. The employee's review of the employment record shall be in the presence of the employee's department head or the Town Administrator.

Unless written authorization is received from an employee except to verify employment, no information concerning an employee shall be released.

VII. PERFORMANCE EVALUATION

The Town of Lanesborough Performance Evaluation System will identify individual accomplishments by its employees, as well as areas in need of improvement. The system is meant to improve the effectiveness and efficiency of Town services and enhance employee job performance and job satisfaction.

- A. This policy applies to all paid staff--appointed or elected, represented and non-represented, excluding those groups for whom performance review processes have been collectively bargained. It is the intent of this policy that every employee is evaluated at least one time annually. Those employees who are in their introductory period may be evaluated just prior to the close of that introductory period so as to document those factors that determine whether the employee will be retained as a regular staff member.
- B. Each employee of the Town shall have a current job description, as approved by the Selectmen. Any changes in job description, and any related changes in performance expectations or goals must be documented in writing and reviewed with the effected employee by his/her supervisor at the time of change.
- C. Each employee of the Town shall have his/her performance and attendance reviewed in August or September each year. This process will be organized by the Selectmen or Town Administrator and will utilize a simple form for recording goals, ratings and comments (*Lanesborough Employee Performance Evaluation Form*). The employee's supervisor will be the primary reviewer/author, and s/he will invite fellow/peer employee input in a manner that is respectful to all parties. Similarly, Selectmen will solicit input from town members, contractors, and others with informed perspective. When appropriate, this "third-party" input will be summarized by the Selectmen and/or supervisor for inclusion in the employee's review. Any notes or correspondence from third parties will be retained in the employee's personnel file and

is subject to review by Town employees. It is the duty of each supervisor to record his/her evaluation of the employee objectively and accurately, and to assure that the summary of third-party input (if any) is fair and accurate.

- D. Each employee should have clearly stated annual goals that are developed in a collaborative process between the employee and supervisor. If specific tools and/or training are needed to successfully complete those goals, it is the responsibility of the Supervisor to assure these are available. The supervisor shall discuss the review with the employee, including changes needed in the job description, and action needed to improve performance and/or correct any areas of unsatisfactory performance. The supervisor shall also discuss his/her thoughts concerning changes in compensation. Interim review meetings may be scheduled to ensure the maintenance of the plan of action. At least three goals must be listed on the Performance Review Form, and it is expected that these should change over time. It is on the basis of completion of these goals, as well as general work performance that the employee will be reviewed in the coming year. After the review has been discussed, the supervisor and the employee shall sign the form. The employee may submit a separate summary in support or rebuttal of the supervisory review, and this document will be attached to the formal review. The review will subsequently be examined and signed by the Selectmen and retained in the employee's personnel file.

In the case where an employee is completing his/her first year and may not have clearly stated goals, the review shall be based on performance of the job as stated in the job description and during the interview process, and will include peer employee input as described above. Input from town members and contractors will not be sought nor included in the first year.

VIII. STANDARDS OF CONDUCT

A. General Policy

The Town expects that all employees will punctually observe work hours; follow safety policies and other policies of operation, respect the rights and property of others; accept compensation only for work actually accomplished; honestly provide information relative to time records; exhibit respect for town property and the general citizenry and behave in a manner which is appropriate in the work environment.

Town employees and appointees must avoid any action which might result in or create the impression of using public office for private gain, giving preferential treatment to any persons, or losing complete partiality in conducting town business. Employees are to keep in mind that they are public employees and are to conduct themselves in a manner which will in no way discredit the town government or fellow employees.

B. Conflict of Interest

No employee shall accept, or agree to accept, either directly or indirectly, any favor, gift, loan, fee, service or other item of value, in any form whatsoever, from any organization or individual if it is intended or gives the appearance of rewarding or influencing the employee in carrying out his/her appointed duties.

No employee shall grant, in the discharge of his/her appointed duties, any improper favor, service, or item of value to any organization or individual if it is intended to give or gives the appearance of rewarding or influencing said organization or individual.

No town employee or appointee shall transact any business in his/her official capacity with any business entity of which he/she is an officer, director, agent, or member, or in which he/she owns a controlling interest.

This rule is not intended to prevent an employee from accepting an award or recognition for meritorious or outstanding achievement for community or government service.

Final determination of any such conflict shall rest with the Town Administrator and Board of Selectmen.

C. Outside Employment

No employee or appointee may engage in additional employment which interferes with the proper and effective performance of the duties of his/her position, or results in a conflict of interest. If the Town Administrator and the Board of Selectmen determines that such outside employment is disadvantageous to the Town, upon notification in writing by the Town Administrator, the employee shall be given the option to resign from Town employment or the second job

D. Privileged Information

Many town employees and appointees deal with plans and programs of significant public interest. Employees and appointees must not use this privileged information to their own financial advantage, or to provide friends and acquaintances with financial advantages or with information that could be used for financial advantage. If an employee or appointee finds that he/she has an outside financial interest which could be affected by town plans or activities, he/she must immediately report the situation to the department head or appointing authority. Each employee and appointee is responsible for insuring that he/she releases only information that should be made available to the general public. Violation of privileged information or use for private gain can be cause for termination of employment.

Town employees often learn of personal information about residents of the Town and other confidential information. Confidential information of any sort is not to be discussed with anyone, including co-workers unless necessary in the line of duty. In addition, this type of conversation is not to be discussed in corridors, eating areas or anyplace other than the work site.

E. Town Property

Employees and appointees should not, directly or indirectly, use or allow the use of Town property of any kind for other than official activities, except with prior permission from the appropriate authorizing authority. An employee or appointee who has been provided with town equipment is expected to exercise reasonable care in the use and preservation of such equipment and to observe all safety precautions while working.

F. Solicitations

Solicitation of employees is prohibited on town property for any purpose. An exception to this rule is the annual town sanctioned campaign for the United Way.

G. Failure to Comply

A failure to comply with the Town's "Standards of Conduct" may result in the Town taking appropriate action to address or remedy the matter, including but not limited to counseling, verbal warnings, written warnings, suspension or dismissal. The Town reserves the right to consider an employee's prior performance in making its decisions.

IX. DISCIPLINARY ACTION

A. General Policy

All employees are responsible for observing regulations necessary for proper operation of the Town. The Town will use the concept of "Progressive Discipline" in its disciplinary actions. Simply stated, this means notifying the employee as soon as possible of any inappropriate action or behavior and having the form and tone of the notice progress from simple reminder/comment to more formal warnings following a path similar to the following: reminder; oral reprimand; written reprimand; suspension; disciplinary probation; discharge. The path through these sample stages will depend on the severity of the situation.

B. Reasons

Disciplinary action may be imposed upon an employee for failure to fulfill his/her responsibility as an employee, including, but not limited to, any of the following:

- Incompetence or inefficiency in the performance of duties, or;
- Inability to perform one or more critical elements of the position, or;
- Use of fraud in securing the position, or;
- Insubordination or disobedience in carrying out reasonable and lawful directions given by a proper supervisor, or;
- Consumption and/or possession of alcoholic beverages while on duty, or;
- Use and/or possession of illegal narcotics while on duty, or;
- Absence without leave, or;
- Abuse of sick leave, or;
- Conviction of a felony, or;
- Misuse or unauthorized use of town property, or;
- Disclosure of confidential information

C. Reprimand

A Department head who notes unsatisfactory job performance, non-compliance with regulations, or displays of improper conduct may issue an oral or written reprimand and an offer of assistance in correcting the unsatisfactory situation. Oral warnings will be given with a maximum regard for minimizing embarrassment to the employee before other employees or the public. Oral and written reprimands shall be entered into the employee's personnel file.

D. Probation

If the oral and/or written reprimand fails to correct the situation, the employee may service a maximum three (3) month probation at the discretion of the department head or the Town Administrator. The employee shall be given written notice stating the reasons for the disciplinary action and the effective date of such action.

When the probationary period expires, the department head will notify the Town Administrator in writing either:

The employee's performance and behavior was satisfactory and that he/she recommends retaining the employee in his/her position, OR The employee's performance and behavior remained unsatisfactory and that he/she recommends either suspending or terminating the employee.

E. Suspension

At the discretion of the Department Head or the Town Administrator, an employee whose performance is unsatisfactory may be suspended without pay for a period or periods that will not exceed a total of thirty (30) days in any twelve month period. Such suspension may be in lieu of disciplinary probation or at the end of the disciplinary probation. The employee will receive a written notice stating the reasons for the suspension, its effective date and length. Upon returning from suspension, the employee may be placed on disciplinary probation at the discretion of the department head or the Town Administrator.

F. Discharge

An employee may be discharged for either unsatisfactory job performance, inappropriate conduct or violation of town regulations. If discharged, the employee will receive a written notice stating the reasons for the discharge and its effective date.

X. GRIEVANCE PROCEDURE

A. General Policy

All employees have the right to have concerns and grievances regarding their employment heard in a fair, equitable and timely manner. An employee, or his/her legal representative, who submits a concern/grievance shall be entitled to a prompt written response. When a concern or grievance is found justified, the employee can expect necessary actions to be taken to resolve the problem. The employee shall not be penalized in any way for filing a concern or grievance, regardless of the outcome.

B. Procedure

All concerns and grievances shall be handled in the following manner:

Step 1: Any employee with questions, concerns or grievances shall first discuss them with his/her department head. It is encouraged that the problem be resolved at this level.

Step 2: If the employee is not satisfied with the results of Step 1, the concern/grievance may be presented in writing to the Town Administrator. Within two (2) working days, or any longer period as all parties agree, the Town Administrator will meet with the employee to discuss the problem. Within four (4) working days of the discussion, the Town Administrator shall provide a written response to the employee.

Step 3: If the employee is not satisfied with the results of Step 2, within seven (7) working days of receiving the written response, the employee may present the concern/grievance to the Board of Selectmen in writing. The Board shall render a decision in writing within fifteen (15) working days, or longer if all parties agree. The decision of the Board is final.

XI. EMPLOYEE SAFETY

A. Risk Management

The Town of Lanesborough takes an aggressive stand toward potential risks and losses inherent in the operation of the town. The town faces potentially damaging risks every day to its physical property, loss of income, contingent expenses, human resources, and legal liability. The objective of the risk management program is to conserve resources from accidental loss; that is, to ensure that the human, financial, physical, and natural resources of the town are preserved against loss. A sound policy of risk assessment allows the town to anticipate losses and to minimize the adverse effects of those losses. It also allows the town to manage possibly dangerous exposure and to prevent unexpected, preventable losses.

If an employee sees a dangerous condition or safety hazard, s/he must immediately report it to his/her supervisor, department head or the Town Administrator.

In regard to personnel policies, risk management aims to prevent accidents and injuries to employees on the job. Accordingly, the town places emphasis on risk assessment/loss control through safety training, inspections of work sites, and establishing goals to provide safe working conditions for all employees. The town's Worker's Compensation Policy insures employees against loss of pay due to job-related injuries.

All supervisors are responsible for investigating and determining the cause of all accidents, and for ensuring that appropriate corrective action is taken.

B. Worker's Compensation

Despite the careful efforts of supervisors and employees to maintain safe working conditions and practices, accidents do happen. The Town of Lanesborough is responsible for providing protection against loss of income and medical expenses incurred for job-related injuries or illness.

The Worker's Compensation Plan provides coverage of medical and related expenses, as well as salary protection for employees under M.G.L. c. 152 and for police and fire personnel under M.G.L. c. 41, s. 111F. In addition to these protections, Lanesborough will protect vacation, sick day, and personal time benefits for employees who miss work due to job-related injury/illness and are drawing workman's compensation benefits.

C. Light Duty

In case of an industrial accident, illness or injury which restricts the employee from performing the full range of his/her regular duties, the Board of Selectmen reserves the right to require the employee to report to work and perform duties which are not inconsistent with the claim of disability even though the employee is unable to perform the full range of his/her regular duties. This assignment may be to work which is not ordinarily performed by the employee.

XII. SEXUAL HARASSMENT POLICY/COMPLAINCE PROCEDURE

A. PURPOSE

To create for all Town employees a work environment free of sexual harassment.

The Town is committed to safeguarding the right of all persons associated with the Town, including employees, supervisors, department heads, Board of Selectmen members and volunteers to a work environment that is free from all forms of sexual harassment. Therefore, the Town condemns and prohibits all sexual harassment on its premises.

All individuals associated with the Town, but not necessarily limited to the Board of Selectmen, the department heads, the employees, and members of the public while on Town property, are expected to conduct themselves at all times so as to provide an atmosphere free from sexual harassment. Any person who engages in sexual harassment while acting as an agent of the Town or while on Town property will be in violation of this policy.

Appropriate disciplinary action, up to and including dismissal, will be taken in any instance where an employee violates this policy. Sexual harassment by others will result in their being excluded from Town premises or if it is required that they enter the premises, they will be accompanied by a Town representative at all times.

If the sexual harassment is criminal in nature, the offense shall be reported to the police department as well as the Sexual Harassment Compliance Officer(s). If the sexual harassment requires the intervention of State agencies, the proper authorities will be contacted. In these circumstances, the Town's attorney will be immediately contacted to give advice and guidance on how to process these actions with the appropriate authorities.

Any employee who believes that he or she has been subjected to sexual harassment should make a complaint to any department head, the Sexual Harassment Compliance Officer(s), or directly to the Town Administrator, so that appropriate action may be taken at once.

Management representatives are charged with the responsibility of discouraging any sexually harassing behaviors within or outside of their areas of supervision. This includes directly confronting the harasser when a management representative observes harassing behavior, and immediately reporting the activity to the Sexual Harassment Compliance Officer(s).

The Sexual Harassment Compliance Officer(s) will investigate complaints promptly, and corrective action will be taken where appropriate. No person will suffer retaliation or intimidation as a result of using the internal complaint procedure.

A copy of this policy and its accompanying regulations are posted in appropriate places, and made available to individuals upon request.

The Sexual Harassment Compliance Officer(s) for the Town are:

| | |
|----------------|---------------|
| Nancy Giardina | Paul Boudreau |
| 413-442-0965 | 413 442-0965 |

B. SEXUAL HARASSMENT DEFINITION

Sexual harassment consists of unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature where:

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

Sexual harassment may include, but is not limited to:

1. Assault, inappropriate touching, intentionally impeding movement, comments, gestures, or written communications of a suggestive or derogatory nature.
2. Continuing to express sexual interest after being informed that the interest is unwelcome. (Reciprocal attraction between peers is not considered sexual harassment.)
3. Suggesting that a poor performance evaluation will be prepared, or suggesting that promotional opportunities will be denied.
4. Coercive sexual behavior used to control, influence or affect the employment opportunities, and/or the employment environment of an employee.
5. Offering or granting favors or employment benefits, such as promotions or recommendations, in exchange for sexual favors.

Other sexual harassing behavior directed towards employees, whether committed by management or employees is also prohibited. Such conduct includes but is not limited to:

1. Unwelcome sexual flirtations, advances or propositions;
2. Sexually explicit language or gestures;
3. Touching that an individual interprets as sexual in nature;
4. Any unwelcome physical contact;
5. The presence of sexually provocative photographs, pictures or other material, and the telling of sexual stories or jokes;
6. Verbal or non-verbal behavior about an individual's body that is interpreted as sexual in nature.

C. COMPLIANCE PROCEDURE--INFORMAL PROCESS FOR EMPLOYEES

In determining whether an alleged incident constitutes sexual harassment, the Sexual Harassment Compliance Officer(s) will be vested with the authority and responsibility of processing all sexual harassment complaints in accordance with the procedure outlined below, unless the Sexual Harassment Compliance Officer(s) is the subject of the complaint:

1. Any employee of the Town who believes that he/she has been subjected to sexual harassment is to report the incident(s) to any Department Head, Sexual Harassment Compliance Officer(s), or directly to the Town Administrator. The Department Head

and/or Town Administrator are to immediately contact the Sexual Harassment Compliance Officer(s). A written record of the complaint will be made by the party receiving the complaint. A separate file system will be maintained, apart from the employee's personnel record, regarding these complaints and as to all matters relating to the complaints.

2. If the alleged harassment involves one of the Sexual Harassment Compliance Officers, the other Sexual Harassment Compliance Officer will act as the Sexual Harassment Compliance Officer.
3. If the alleged harassment involves both Sexual Harassment Compliance Officers, the Clerk of the Board of Selectmen will act as the Sexual Harassment Compliance Officer.
4. If the alleged harassment involves the Town Administrator, the Clerk of the Board of Selectmen will act as the Sexual Harassment Compliance Officer.
5. The Town Administrator and the Sexual Harassment Compliance Officer will look at the totality of the circumstances and the context in which the alleged incidents occurred. They will attempt to resolve the problem by conferring with both parties in order to obtain a clear understanding of the facts. All matters involving sexual harassment complaints will remain confidential to the extent possible.
6. Employees may be accompanied, at any phase of this process or subsequent hearing before the Board of Selectmen, by a representative of their choosing.
7. The Sexual Harassment Compliance Officer will explain each phase of the Informal and Formal Complaint Process to an employee who wishes to file a complaint and will assist the employee in the processing of the complaint. In addition, the Sexual Harassment Compliance Officer will inform the employee of additional forums for resolution of the complaint such as the Office of Civil Rights (O.C.R.) and the Massachusetts Commission Against Discrimination (M.C.A.D.).
8. Under normal circumstances, the Sexual Harassment Compliance Officer's investigation will be completed within five working days of the initial complaint. Upon completion of the investigation, the Sexual Harassment Compliance Officer shall issue his/her findings in writing to the employee and the alleged harasser.

D. COMPLIANCE PROCEDURE--FORMAL PROCESS FOR EMPLOYEES

1. A complainant may file a formal complaint immediately or may do so after the Town Administrator's and the Sexual Harassment Compliance Officer's efforts to reach a settlement under the informal process have proven unsuccessful.
2. The complaint will state clearly and concisely the complainant's description of the incident and it will also indicate any remedy sought. The complaint must be signed by the complainant. The Town Administrator's office will send the respondent a copy of the complaint within five working days after it is received. A separate file system shall be maintained as to all matters relating to the complaint. Confidentiality shall be maintained to the extent possible.
3. The respondent will have ten working days to respond in writing. This statement will contain full and specific references to each claim in the complaint, admitting, denying or explaining the complainant's allegations. The respondent must sign his or her statement which will then be appended to the original complaint. Within three working days, the Town Administrator's office will forward both statements to the complainant and the respondent.
4. There will be two modes of resolution for formal complaints. A complaint may be settled through mediation or through a hearing. If the complainant and respondent agree to pursue mediation, a date mutually acceptable to both parties will be set within ten working days. If the mediation results in a mutually acceptable agreement, copies of the agreement will be forwarded to both parties. If the mediation does not result in an

agreement, the case will be forwarded to the Town Administrator for a hearing unless the Town Administrator is the alleged harasser in which case the hearing will be before the Board of Selectmen.

5. When a hearing is requested, the Sexual Harassment Compliance Officer will inform the Town Administrator or the Board of Selectmen, as the case may be, and the case will be heard at the next regularly scheduled meeting of the Board of Selectmen pursuant to the provisions of the Commonwealth's Open Meeting Law and/or before the Town Administrator.

E. FORMAL HEARING

1. The purpose of the hearing before the Town Administrator or Board of Selectmen is to determine whether the Town's policy on sexual harassment has been violated, and, if so, to determine the appropriate consequences for the violation.
2. Both parties will be given a full and fair hearing. The proceeding, although formal, is not a court proceeding and the Town Administrator or Board of Selectmen is not bound by the procedures and rules of evidence of a court of law. In most instances, complainants and respondents will be expected to speak for themselves, although, if desired, each party may be accompanied by counsel or an advocate.
3. The presiding officer of the hearing may have counsel present for purposes of assisting in the orderly conduct of the hearing and the questioning of witnesses. The complainant and the respondent will be asked to clarify the issues and to define the areas of disagreement. To encourage a fair and focused hearing, at the start of the proceedings the points of agreement and disagreement will be reviewed. The Town Administrator or the Board of Selectmen, as the case may be, will hear testimony and consider whether the Town's Policy on Sexual Harassment has been violated, and, if so, will recommend appropriate consequences.
4. The presiding officer will:
 - a. ensure an orderly presentation of all evidence;
 - b. ensure that the proceedings are accurately recorded by means of a tape or stenographic recording; and
 - c. see that a decision is issued no later than ten working days after the conclusion of the hearing or, when written arguments are submitted, ten working days after their submission.
5. The Town Administrator or the Board of Selectmen, as the case may be, will:
 - a. conduct a fair and impartial hearing which ensures the rights of all parties involved;
 - b. define issues of contention;
 - c. receive and consider all relevant evidence which reasonable people customarily rely upon in the conduct of serious business;
 - d. ask relevant questions of the complainant, respondent, and any witnesses if needed to elicit information which may be of assistance in making a decision; and
 - e. ensure that the complainant and respondent have full opportunity to present their claims orally or in writing, and to present witnesses and evidence which may establish their claims.

F. DECISION OF THE TOWN ADMINISTRATOR OR THE BOARD OF SELECTMEN

1. After all the evidence, testimony, and written arguments have been presented, the Board of Selectmen will convene for deliberations to determine whether the Town's policy on sexual harassment has been violated. If the Board of Selectmen find after a roll call vote that the policy has not been violated, that fact will be registered in the records of the

hearing, and the written decision will be forwarded to the complainant and the respondent no later than fifteen working days after completion of the hearing.

In hearings before the Town Administrator, if the Town Administrator finds that the policy has not been violated, the Town Administrator will issue a written decision to the complainant and the respondent no later than fifteen working days after the completion of the hearing.

2. If the Board of Selectmen finds after a roll call vote that the charge of violating the Town's policy on sexual harassment has been substantiated, the Board of Selectmen will prepare findings and will determine a penalty for the respondent and relief for the complainant. The Board of Selectmen will issue such decision to the complainant and the respondent no later than fifteen working days after the completion of the hearing.

In hearings before the Town Administrator, if the Town Administrator finds that the charge of violating the Town's policy on sexual harassment has been substantiated, the Town Administrator will prepare findings and will determine a penalty for the respondent and relief for the complainant. The Town Administrator will issue such decision to the complainant and the respondent no later than fifteen working days after the completion of the hearing.

The findings of fact as well as the penalty and relief will be based solely on the testimony and evidence presented at the hearing.

3. The penalty should reflect the severity of the harassment. The penalties may include, but will not be limited to, any one or combination of the following: verbal admonition, written warning placed in the respondent's personnel file, probation, suspension without pay, dismissal, demotion, or removal from administrative duties within a department. The Board of Selectmen or Town Administrator may also make appropriate recommendations, such as professional counseling, and may recommend relief for the complainant which reinstates and restores, as much as possible, the aggrieved party.

XIII. NON-DISCRIMINATION

The Town recognizes the right of individuals to work and advance on the basis of merit, ability, and potential without regard to race, sex, color, disability, religion, national origin, gender orientation, or age. Non-discrimination and equal opportunity are the policy of the Town in all of its employment programs and activities.

Toward this end, the Town commits itself to take affirmative measures to ensure equal opportunity in the areas of recruitment, hiring, promotion, demotion or transfer, layoff or termination, rates of compensation, in-service or apprenticeship training programs, and all terms and conditions of employment. The Town is committed to fostering and encouraging a workplace comprised of individuals of diverse backgrounds, races, genders, abilities, religious beliefs, gender orientation, and ages.

All Town employees are encouraged to take diligent, affirmative steps to ensure equal opportunity and respect for diversity, not only in the internal affairs of the Town departments and agencies, but also in their relations with the public, including those persons or organizations doing business with the Town. The policy of the Town is to:

- a) Recruit, hire, and promote in all job classifications without regard to race, sex, color, disability, religion, national origin, gender orientation, or age.

b) Make decisions about employment so as to encourage the development of a diverse workforce.

c) Ensure that employment and promotion decisions are made in accordance with the principles of equal opportunity, by imposing only valid, job-related requirements for employment and promotional opportunities.

d) Ensure that all personnel actions such as compensation, benefits, transfers, layoff, recall, training, tuition assistance, and social and recreational programs will be administered without regard to race, sex, color, disability, religion, national origin, gender orientation or age.

e) Prohibit any kind of harassment based on race, sex, color, disability, religion, national origin, gender orientation, or age.

No retaliatory action against those persons who file complaints of discrimination or against individuals who cooperate in such in investigations will be tolerated. Violation of this policy will lead to appropriate disciplinary action up to and including termination from Town Service.

Anyone who feels that he or she has been discriminated against by the Town on the basis of race, sex, color, religion, national origin, gender orientation or age in employment practices may file a grievance in accordance with the procedures described in this document.

XV. AMERICANS WITH DISABILITIES ACT

It is the policy of the Town to comply with requirements of the regulations contained in the U.S. Americans with Disabilities Act of 1990. This policy applies to all employees of the Town, excluding those employees under the supervision and control of the School Committee.

The Town will not discriminate against people with disabilities in any employment practices or in terms, conditions or privileges of employment, including, but not limited to: application, testing, hiring, assignment, evaluation, disciplinary action, training, promotion, medical examination, layoff/recall, termination, compensation, leaves or benefits.

The Town has and will continue to establish occupational qualifications for each position, including the education, skills, and work experience required, and the physical, mental and environmental standards necessary for job performance, health, and safety. Such standards are job-related and consistent with necessity.

The Town will provide reasonable accommodation to the known physical or mental limitations of a qualified applicant or employee unless such accommodation will impose undue hardship on the Town. The Town will provide reasonable accommodation:

- To ensure equal employment opportunity in the application process
- To enable a qualified individual with a disability to perform the essential functions of the job
- To enable an employee with a disability to enjoy equal benefits and privileges of employment.
- The Town need not provide reasonable accommodation for an individual who is otherwise not qualified for a position.
- The duty to provide reasonable accommodation is on-going, and may arise any time an employee's job changes.
- It is the obligation of the individual with the disability to request the accommodation.

- If the cost of providing the accommodation is determined to meet the criteria of undue hardship on the Town, the affected individual will be offered the opportunity to provide the accommodation or partial accommodation him or herself.

Some examples of reasonable accommodation include, but are not limited to, the following:

- Making facilities readily accessible and usable;
- Restructuring a job by reallocating or distributing marginal job functions;
- Altering when or how an essential job function is performed;
- Creating part-time or flexible schedules;
- Obtaining or modifying equipment or devices;
- Providing qualified readers or interpreters;
- Permitting the use of accrued or unpaid leave for treatment; and,
- Providing reserved parking.

When attempting to identify what is a reasonable accommodation, appointing authorities and department managers should do the following:

- a) Examine the particular job involved, determining its purpose and its essential functions.
- b) Consult with the individual with the disability to find out his or her specific physical or mental abilities and limitations.
- c) In consultation with the individual, identify potential accommodations and assess how effective each would be.
- d) If an individual requests an accommodation which the appointing authority or department head considers to be unnecessary, the department head may ask for written documentation from a physician or other professional with knowledge of the individual's functional limitations.
- e) The determination that any reasonable accommodation represents an undue hardship will be made by the Town Administrator or his/her designee.

No pre-employment inquiries may be made about an applicant's disability. This prohibition does not prevent an employer from obtaining necessary information regarding an applicant's qualifications, including medical information necessary to assess such qualifications and to ensure health and safety on the job. Before making a job offer, the Town may ask questions about an applicant's ability to perform specific job functions, and may make a job offer that is conditioned on satisfactory results of a post-offer medical examination or inquiry. The Town may not make inquiries about specific disabilities. Questions which may not be asked during a pre-employment interview include (but are not limited to):

- Have you ever had, or been treated for any of the following conditions?
- Please list any conditions or diseases for which you have been treated in the past three years.
- Have you ever been hospitalized? If so, for what condition?
- Have you ever been treated by a psychiatrist or psychologist? If so, for what condition?
- Have you ever been treated for any mental condition?
- How many days were you absent from work because of illness last year?
- Do you have any disabilities or impairments which may affect your performance in the position?
Are you taking any prescription drugs?
- Have you ever been treated for drug addiction or alcoholism?
- Have you ever filed a workers' compensation claim?

In addition, these questions may not be asked of a previous employer or other reference provider for an applicant during reference checks. In addition, the hiring manager may not ask the reference provider about the applicant's:

- Disability;
- Illness or,
- Workers' compensation history.

Even if the applicant is qualified to perform the job, the Town may deny employment if such employment would pose a direct threat to the health and safety of the individual or others, if such threat cannot be eliminated through reasonable accommodation. Such determination must be made by the Town Administrator or his/her designee after careful review of the circumstances.

An employee who is an alcoholic is considered to be a person with a disability under the terms of the ADA. However, the Town may discipline, discharge or deny employment to an alcoholic whose use of alcohol adversely affects job performance or conduct to the extent that he or she is "not qualified" for the position.

Persons addicted to drugs, but who are no longer using drugs illegally and who are receiving treatment for drug addiction, or who have been rehabilitated successfully, are protected from discrimination by the ADA. However, the Town will discharge or deny employment to current illegal users of drugs, in accordance with policies established herein. The Town may ask questions regarding the use of alcohol or illegal use of drugs. However, the employer may not ask whether the applicant is a drug addict or alcoholic, or whether he/she has ever been in a drug or alcohol rehabilitation program.

Violation of this policy will lead to appropriate disciplinary action up to and including termination from Town Service.

The Town's grievance procedure for discrimination is contained in the next policy.

XIV. DISCRIMINATION GRIEVANCE PROCEDURE

The purpose of this procedure is to encourage local resolution of grievances concerning employment. It is important to note that grievants are not required to exhaust the Town's procedures prior to filing a state or federal complaint or taking court action.

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

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

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

Within 15 calendar days after receipt of the grievance, the Town Administrator will meet with the grievant to discuss the grievance and possible resolutions. Within fifteen (15) calendar days after the meeting, the Town Administrator will respond to the grievant in writing, or where appropriate, in a format accessible to the grievant such as audio tape. The response will explain the position of the Town, and may offer options for substantive resolution of the grievance.

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

This grievance procedure is meant to be informal, and cannot be legally binding on either party. Any grievance or complaint involving existing or threatened civil or criminal litigation may not be addressed using this informal procedure.

No retaliatory action will be taken against those persons who file complaints of discrimination on the basis of race, sex, color, disability, religion, national origin, gender orientation, or age, or against individuals who cooperate in such investigations.

XV. WHISTLEBLOWER POLICY

This policy is adopted pursuant to and in accordance with the Massachusetts Whistleblower Protection Act, 1992, Massachusetts General Laws Chapter 149 (the "Act" and is designed specifically to protect such conduct and provide such remedies as are set forth in the Act.

It is the policy of the Town:

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

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

Town employees who obtain knowledge of facts demonstrating improper governmental actions should raise the issue first with their supervisor, the Town Administrator/designee, or the appropriate governmental agency.

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

- a) Is reasonably certain that the activity, policy or practice is known to one or more supervisors of the employer and the situation is an emergency in nature;
- b) Reasonably fears physical harm as a result of the disclosure provided; or
- c) Makes the disclosure to a public body for the purpose of providing evidence of what the employee reasonably believes to be a crime.

Town employees who fail to make a good-faith attempt to follow this policy in reporting improper governmental action shall not receive the protections provided under this policy or the Act. Employees who make false reports may be subject to the disciplinary procedures in the Town personnel code.

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

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

Employees who believe that they have been retaliated against for reporting an improper governmental action should advise their supervisor or the Town Administrator/designee. Town officials, administrators and supervisors shall take appropriate action to investigate and address complaints of retaliation. If the supervisor or the Town Administrator/designee, as the case may be, does not satisfactorily resolve an employee's complaint that he or she has been retaliated against in violation of this policy, the employee, in accordance with the Act, may, within two years, institute a civil action in the superior court. Any party to said action shall be entitled to claim a jury trial. All remedies available in common law tort actions shall be made available to prevailing plaintiffs. These remedies are in addition to any legal or equitable relief provided herein.

The Town Administrator/designee is responsible for implementing the Town's policies and procedures: (1) for reporting improper governmental actions, and (2) for protecting employees against retaliatory actions. This includes ensuring that this policy is permanently posted where all employees will have reasonable access to it, and that this policy is made available to any employee upon request. The Town will, to the extent it considers practical, provide training and education on the whistleblower policy. Managers and supervisors are responsible for ensuring that this policy is fully implemented within their areas of responsibility. Violations of this policy may result in appropriate disciplinary action up to and including dismissal.

APPENDIX A

Family and Medical Leave Act of 1993

The Town shall comply with the mandatory provisions of the Family and Medical Leave Act of 1993. The Town Administrator shall ensure compliance with those regulations by some combination of personal oversight and delegation.

A Leave without Pay

1. Employees may take leave without pay when they have exhausted their leave benefits and need additional leave to cover personal illness; the illness of a spouse, child, or parent; the birth or adoption of a child; for any “qualifying exigency” arising out of the fact that the employee’s spouse, son, daughter, or parent is on active duty, or has been notified of an impending call or order to active duty as a member of the National Guard or Reserves, in support of a contingency operation; or to care for a covered service member with a serious injury or illness if the employee is the service member’s spouse, son, daughter, parent, or next of kin.
2. An employee is not entitled to Family leave without pay unless:
 - a. that employee has been employed for at least twelve (12) months by the Town*
and
 - b. that employee has worked at least 1250 hours in the previous 12 month period or has a salaried position of at least .5 F.T.E.

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| <p>* While the twelve (12) months of employment need not be consecutive, employment periods prior to a break in service of seven (7) years or more need not be counted unless the break is occasioned by the employee’s fulfillment of his/her National Guard or Reserve military obligation (as protected under the Uniformed Services Employment and Reemployment Rights Act (USERRA)), or a written agreement, including a collective bargaining agreement, exists concerning the employer’s intention to rehire the employee after the break in service.</p> |
|--|

3. Extent of leave:
 - a. An eligible employee may take up to twelve weeks (or twenty-six (26) weeks if leave to care for a covered service member with a serious injury or illness is also used) of leave total during a twelve (12) month period, including any paid leave used. The employee must exhaust all sick leave as per contract, available paid vacation leave and personal leave before being entitled to take leave without pay.
4. Definitions:
 - a. "Child" means a son or daughter, whether biological adopted, foster child, a stepchild, legal ward or child to whom the employee stands in loco parentis, if the child is either under the age of eighteen (18) years or is incapable of self-care because of a mental or physical disability.
 - b. "Health care provider" means a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state where the doctor practices, or any person determined by the Secretary of Labor to be capable of providing health care services.
 - c. "Intermittent Leave" means leave taken in whole day periods but less than a

whole work week.

- d. "Parent" means a biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a child.
- e. "Reduced leave schedule" means a leave schedule that reduces the usual number of hours per work week, or hours per workday, of an employee.
- f. "Serious health condition" means an illness, injury, impairment, or physical or mental condition which involves either:
 - (1) inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., inability to work, attend school, or perform other regular daily activities) or subsequent treatment in connection with such inpatient care; **or**
 - (2) continuing treatment by a health care provider, which includes:
 - i. A period of incapacity lasting more than three (3) consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that **also** includes:
 - treatment two (2) or more times by or under the supervision of a health care provider (i.e., in-person visits, the first within seven (7) days and both within thirty (30) days of the first day of incapacity); **or**
 - one (1) treatment by a health care provider (i.e., an in-person visit within seven (7) days of the first day of incapacity) with a continuing regimen of treatment (e.g., prescription medication, physical therapy); **or**
 - Any period of incapacity related to pregnancy or for prenatal care; **or**
 - Any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for absence; **or**
 - A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment; **or**
 - Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three (3) days if not treated.

A visit to the health care provider is not necessary for each absence.

g. "Spouse" means a husband or wife, as defined by state law.

h. "Twelve Month Period" the preceding twelve-month period from when the leave commences.

B. Types of Leave without Pay

1. Personal Medical Leave without Pay: The Town may grant a medical leave of absence without pay to an employee who, because of a serious health condition is unable to perform the functions of his or her job.

a. An employee must exhaust all available sick leave before taking leave without

pay.

b. Medical Certification:

(1) The Town may require a medical certification from the employee's health care provider, stating—

- i. the date on which the health condition began,
- ii. the probable duration of the condition,
- iii. the appropriate medical facts within the health care provider's knowledge regarding the condition,
- iv. a statement that the employee is unable to perform the functions of his/her job.

(2) If the Town has reason to doubt the validity of the medical certification provided by the employee's health care provider, the Town may require, at the Town's expense, a second opinion. The employee must obtain the opinion of the Town's designated health care provider concerning the information in b., above. The health care provider giving the second opinion may not be a person regularly employed by the Town.

(3) If the second opinion conflicts with the first, the Town may require, at the Town's expense, a third opinion. The third health care provider's opinion shall be final and binding on the Town and the employee.

(4) The Town may require an employee on medical leave without pay to provide medical certifications at reasonable intervals.

c. If the necessity for leave is foreseeable based on planned medical treatment, the employee—

(1) shall make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the Town, subject to the approval of the employee's health care provider.

(2) shall give the employee's supervisor at least thirty (30) days' notice, before the date the leave is to begin, of the employee's intention to take personal medical leave without pay, except that if the date of treatment requires the leave to begin in less than thirty (30) days, the employee shall provide such notice as practicable.

d. If the necessity for leave is foreseeable less than thirty (30) days in advance the employee must provide notice as soon as practicable generally, either the same or next business day.

e. If the necessity for leave is not foreseeable, the employee must provide notice to the employer as soon as practicable under the facts and circumstances of the particular case. Absent unusual circumstances, employees must comply with the employer's usual and customary notice and procedural requirements for requesting leave.

f. The employee may take intermittent leave or take leave on a reduced leave schedule when medically necessary.

g. Before the employee may resume work, the employee must present his or her supervisor with written medical certification from the employee's health care provider that the employee is able to resume work. If reasonable safety concerns exist, the Town may, under certain circumstances, require such a certification for employees returning from intermittent FMLA leave.

2. Family Medical Leave without Pay: The Town may grant a medical leave of absence without pay to an employee who needs the time off to care for the employee's spouse, child or parent, if the spouse, child or parent has a serious health condition.

a. Medical Certification

(1) The Town may require a medical certification from the health care provider for the spouse, child, or parent, as the case may be, stating –

- i. the date on which the health condition began,
- ii. the probable duration of the condition,
- iii. the appropriate medical facts within the health care provider's knowledge regarding the condition,
- iv. that the employee is needed to care for the spouse, child, or parents, as the case may be, and an estimate of the amount of time that such employee is needed to care for the spouse, child, or parent.

(2) If the Town has reason to doubt the validity of the medical certification provided by the employee's health care provider, the Town may require, at the Town's expense a second opinion. The employee must obtain the opinion of the Town's designated health care provider concerning the information in b., above. The health care provider giving the second opinion may not be a person regularly employed by the Town.

(3) If the second opinion conflicts with the first, the Town may require, at the Town's expense, a third opinion. The third provider's opinion shall be final and binding on the Town and the employee.

(4) The Town may require an employee on medical leave without pay to provide medical certification at reasonable intervals.

b. If the necessity for leave is foreseeable based on planned medical treatment, the employee:

(1) Shall make a reasonable effort to schedule the treatments so as not to disrupt unduly the operations of the Town, subject to the approval of the health care provider for the spouse, child, or parent of the employee, as the case may be, and

(2) Shall give the employee's supervisor at least thirty (30) days notice, before the date the leave is to begin, of the employee's intention to take family medical leave without pay, except that if the date of the treatment requires the leave to begin in less than thirty days, the employee shall provide such notice as practicable.

(3) If the necessity for leave is foreseeable less than thirty (30) days in advance, the employee must provide notice as soon as practicable – generally, either the same or next business day.

(4) If the necessity for leave is not foreseeable, the employee must provide notice to the employer as soon as practicable under the facts and circumstances of the particular case. Absent unusual circumstances, employees must comply with the employer's usual and customary notice and procedural requirements for requesting leave.

(5) The employee may take intermittent leave or take leave on a reduced leave schedule when medically necessary.

3. Parental Leave without Pay: An employee may take parental leave without pay

within one year of the birth of the child in order to care for that child. An employee may take parental leave without pay within one year of the placement of a child with the employee for adoption or foster care.

a. When the need for parental leave without pay is foreseeable based on expected birth or placement, the employee shall give his or her supervisor at least thirty (30) days' notice before the date the leave is to begin. If the date of the birth or placement requires leave to begin in less than thirty days, the employee shall provide such notice as is practicable. Absent unusual circumstances, employees must comply with the employer's usual and customary notice and procedural requirements for requesting leave.

b. An employee taking parental leave without pay may not take intermittent leave or work on a reduced leave schedule without the express consent of the Town Administrator in writing.

4. **Qualifying Exigencies Leave Without Pay:** An employee may take leave without pay for qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or call to active duty status as a member of the National Guard or Reserves in support of a contingency operation. Qualifying exigency leave is not available to family members of military members in the Regular Armed Forces. A qualifying exigency is defined as: (1) Short-notice deployment (i.e., deployment on seven or less days of notice) for a period of seven days from the date of notification; (2) Military events and related activities; (3) Childcare and school activities; (4) Financial and legal arrangements; (5) Counseling; (6) Rest and recuperation; (7) Post-deployment activities; and (8) Additional activities not encompassed in the other categories, but agreed to by the employer and employee.

a. Certification--Leave for a qualifying exigency must be supported by a copy of the covered military member's active duty orders and certification providing the appropriate facts related to the particular qualifying exigency for which leave is sought, including contact information if the leave involves meeting with a third party. A second and third opinion and recertification are not permitted for certification of a qualifying exigency. The employer may contact the individual or entity named in a certification of leave for a qualifying exigency for purposes of verifying the existence and nature of the meeting.

b. An employee must provide notice of the need for foreseeable leave due to a qualifying exigency as soon as practicable. When the need is not foreseeable, the employee must provide notice to the employer as soon as practicable under the facts and circumstances of the particular case. Generally, it should be practicable to provide notice for unforeseeable leave within the time prescribed by the employer's usual and customary notice requirements.

c. Leave may be taken intermittently for a qualifying exigency.

5. **Care for Service Member Leave Without Pay:** An employee who is a spouse,

son, daughter, parent, or next of kin of a current member of the Armed Forces, including a member of the National Guard or Reserves, with a serious injury or illness may take leave without pay for up to a total of twenty-six (26) workweeks during a single twelve (12) month period to care for the service member.

A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. A serious injury or illness is one that was incurred by a service member in the line of duty on active duty that may render the service member medically unfit to perform the duties of his or her office, grade, rank, or rating. The “single 12-month period” for leave to care for a covered service member with a serious injury or illness begins on the first day the employee takes leave for this reason and ends 12 months later, regardless of the 12 month period established by the employer for other types of FMLA leave. An eligible employee is limited to a **combined** total of 26 workweeks of leave for any FMLA-qualifying reason during the “single 12-month period.” (Only 12 of the 26 weeks total may be for a FMLA-qualifying reason other than to care for a covered service member).

a. Medical Certification

Leave to care for a covered service member with a serious injury or illness must be supported by a certification completed by an authorized health care provider **or** by a copy of an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA) issued to any member of the covered service member’s family. Second and third opinions and recertification are not permitted. The employer may use a health care provider, a human resource professional, a leave administrator, or a management official – but not the employee’s direct supervisor – to authenticate or clarify a medical certification of a serious injury or illness, or an ITO or ITA.

b. Employees seeking to use military caregiver leave must provide 30 days advance notice of the need to take FMLA leave for planned medical treatment for a serious injury or illness of a covered service member. If leave is foreseeable, but 30 days advance notice is not practicable, the employee must provide notice as soon as practicable – generally, either the same or next business day. When the need is not foreseeable, the employee must provide notice to the employer as soon as practicable under the facts and circumstances of the particular case. Generally, it should be practicable to provide notice for unforeseeable leave within the time prescribed by the employer’s usual and customary notice requirements.

c. Leave may be taken intermittently whenever **medically necessary** to care for a covered service member with a serious injury or illness. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer’s operation.

C. Special Rules

1. Benefits during Leave:

a. While the employee is on Family or Medical leave, the Town shall sustain benefits and accumulations for sick days, personal days, and vacation.

Similarly, the will maintain coverage of the employee under its group health plan at

the level and under the conditions which would have been provided if the employee had continued in employment instead of being on leave.

b. If the employee normally had a monthly payment to that plan, the employee must make that monthly payment. If the employee fails to make such payments, the Town shall, if possible, continue the benefits at the reduced rate. If such a reduced rate is not possible, then the employee shall be excluded from the group health plan.

2. Employment and Benefits upon Return to Work:

a. Any employee who takes leave under this Policy for the intended purpose of the leave shall be entitled, on return from leave--

(1) to be restored to his or her former job, or

(2) to be placed in an equivalent position with equivalent benefits, pay, and other terms and conditions of employment.

b. The taking of leave under this policy shall not result in the loss of any employment benefit accrued before the date on which the leave began, nor be counted against the employee under a "no fault" attendance policy. If a bonus or other payment, however, is based on the achievement of a specified goal such as hours worked, or perfect attendance, and the employee has not met the goal due to FMLA leave, payment may be denied unless it is paid to an employee on equivalent leave status for a reason that does not qualify as FMLA leave.

c. No employee shall accrue seniority or employment benefits during any period of leave, nor shall the employee be entitled to any right, benefit, or position of employment other than those to which the employee would have been entitled if the employee had not taken the leave.

3. Failure to Return from Leave: The Town may recover the premium which it paid for maintaining coverage of the employee under its group health plan during the employee's unpaid leave under this policy if-

a. the employee fails to return from unpaid leave under this policy after the period of leave to which the employee is entitled has expired; and

b. the employee fails to return to work for a reason other than--

(1) the continuance, recurrence, or onset of a serious health condition which would entitle the employee to personal or family medical leave without pay, or

(2) other circumstances beyond the control of the employee.

4. Prohibited Acts:

a. No employee of the Town shall interfere with, restrain, or deny the exercise of or the attempt to exercise any right provided under this title.

b. No employee of the Town shall discriminate against any individual for opposing any practice contrary to this policy.

c. No employee of the Town shall discriminate against any individual for:

(1) filing any charge, instituting or causing to be instituted any

proceeding, under or related to this policy,

(2) giving, or being about to give, any information in connection with any inquiry or proceeding relating to any right provided under this policy, or

(3) testifying, or being about to testify, in any inquiry or proceeding relating to any right provided under this policy.

APPENDIX B

Massachusetts Maternity Leave Act

The Town provides pregnancy disability leaves-of-absence to eligible employees who are temporarily unable to work due to a disability related to pregnancy, for childbirth, or related medical conditions, and leaves of absence in order to adopt a child (or children).

Employees who have completed three (3) months of employment in a full time position are eligible to request pregnancy disability or maternity leave as described in this policy.

Employees should make requests for pregnancy disability leave, childbirth, or adoption leave to their supervisors at least thirty (30) days in advance of foreseeable events and as soon as possible for unforeseeable events. Requests must be in writing and include the anticipated start of the leave and the intention to return with an anticipated date.

Pregnancy disability leave, childbirth, and adoption leave will be concurrent with the benefits of other types of leave such as FMLA and medical leave. If the employee is eligible under the guidelines of the Massachusetts Maternity Leave Act, the portion of the leave that may extend beyond the date of childbirth will be counted toward fulfillment of the requirements of that Act.

A health care provider's statement must be submitted verifying the need for pregnancy disability leave or childbirth and its beginning and expected ending dates. Any changes in this information should be promptly reported to the Town. Employees returning from pregnancy disability leave or childbirth must submit a health care provider's verification of their fitness to return to work.

Employees are normally granted leave for the period of disability up to a maximum of eight (8) weeks per child or adoption (see also FMLA policy for potential greater leave entitlement). Employees will be paid accrued sick time until benefits are exhausted, and then paid accrued personal, or vacation time available following the guidelines of the general leave policies. Employees may choose to be in an unpaid leave status for any period covered under the Massachusetts Maternity Leave Act (MMLA). For all other disability time, or if the employee chooses to be paid for a period of disability under the MMLA, payment of accrued sick time will occur before the other categories of accrued time are used as described above and following the guidelines of the general leave policies.

Subject to the terms, conditions, and limitations of the applicable plans, and general leave policies, the Town will continue to provide health insurance benefits for the full period of the paid, approved pregnancy disability leave, childbirth or adoption leave. Employees are required to pay the same deductions they paid prior to the commencement of the leave. Payments not made within thirty (30) days of their due date will trigger cancellation of health insurance coverage. Insurance benefits may be available during the period of unpaid leave, if the employee is also eligible under the terms of the Family and Medical Leave Act, subject to the Family and

Medical Leave Act policy (see FMLA Leave Policy). If an employee fails to return from maternity leave, the Town may seek reimbursement from the employee for the portion of the premiums it paid on behalf of the employee (also known as the employer contribution) during the employee's leave.

So that an employee's return to work can be properly scheduled, anyone on pregnancy disability leave, childbirth, or adoption leave is requested to provide the Town with at least two (2) weeks advance notice of the date he/she intends to return to work.

When a leave ends, the employee will be reinstated to the same position, unless either the job ceased to exist because of legitimate business reasons, or if the job could not be preserved due to operational needs. If the same position is not available, the employee will be offered a comparable position in terms of such issues as pay, position, and shift. The employee's restoration rights are the same as they would have been had the employee not been on leave. Thus, the employee will be subject to any pay or benefit reductions or other adverse actions, including layoffs, that he/she would have experienced if he/she had not taken leave under this policy.

An employee is not entitled to seniority or benefit accrual during periods of unpaid leave, but will not lose any seniority or accrued benefits earned prior to the leave. Failure to report to work promptly at the end of the pregnancy disability leave, childbirth or adoption leave will be considered a voluntary resignation.

APPENDIX C

Small Necessities Leave Act (Mass. General Laws c.149, §52D)

In accordance with General Laws c.149, §52D, an eligible employee is entitled to a total of 24 hours of leave during a twelve (12)-month period, in addition to other leave under this section, to participate in school activities directly related to the education advancement of the employees child; to accompany the employee's child to routine medical or dental appointments, and to accompany an elderly relative as defined in section 52D to routine medical or dental appointments or other professional services related to the elder's care. Leave under this provision is in addition to the twelve (12)-week leave provision and may be taken on an intermittent or reduced leave schedule. Family business leave shall be unpaid, unless the employee applies any paid leave that he or she has available.

APPENDIX D

Department of Unemployment Assistance Notices

Massachusetts General Laws Chapter 151A, Section 62 contains several requirements regarding the availability of Unemployment Insurance Benefits to employees through the Massachusetts Division of Unemployment Assistance (DUA). Details regarding these requirements can be found on the DUA website at www.detma.org. The specific items to be posted or disseminated are listed below and these materials can also be found and downloaded through the DUA website.

The DUA poster entitled “Information on Employee’s Unemployment Insurance Coverage” (Form 2553-A, Rev. 4-02) must be displayed at each site operated by an employer in a conspicuous place accessible to all employees. The poster must include the name and mailing address of the employer and the identification number assigned to the employer by the Division of Unemployment Assistance. This Form can be found at [http://deta.org/forms/empforms, htm](http://deta.org/forms/empforms.htm).

Under the state’s Employment and Training Law, employers are required to give a copy of the pamphlet entitled “How to File for Unemployment Insurance Benefits” (Form 0590-A, Rev. 02-03) to each employee who is separated from work, permanently or temporarily for seven (7) or more days. The pamphlet must include the name and mailing address of the employer and the identification number assigned to the employer by the Division of Unemployment Assistance. This form can be found and downloaded at: <http://www.detma.org/forms/empforms1.htm>.

The DUA website also contains a listing of all DUA TeleClaims numbers and Walk-in Service Center locations throughout the Commonwealth which can be provided to employees. It also contains a direct link to Chapter 151A of the General Laws of Massachusetts governing how the unemployment insurance program operates in Massachusetts.