

# TOWN OF GOSHEN MASSACHUSETTS



## EMPLOYEE HANDBOOK

Last Revised: December 1st, 2009

Town of Goshen - Employee Handbook

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## **PREAMBLE**

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The Town of Goshen is an equal opportunity employer that seeks to promote uniform treatment of its employees and to maintain good labor relations, establish work rules and performance expectations, and to promote the delivery of quality services to the Town. In support of these goals, the Town is publishing these policies.

## **PURPOSE OF POLICIES**

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The purpose of these policies is to ensure

- the delivery of quality and efficient services to the citizens for which they are entitled;
- the establishment of a fair and equitable system of personnel administration based on principles that ensure a uniform, fair, and efficient application of personnel policies;
- the establishment of the rules, guidelines, and practices governing the conditions of employment; and,
- the employee understands the benefits to which they are entitled.

## **EMPLOYMENT AT WILL**

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Fundamental to meeting the Town's objectives is a clear understanding of the ground rules that are essential to effective teamwork. The purpose of this handbook is to assist you in understanding your rights and obligations as an employee. Your handbook is a source of general information concerning the Town's policies, procedures and work rules as they exist on the date of its publication.

*This handbook is not an employment contract and does not limit the reasons for termination of the employment relationship.*

The Town has prepared this handbook as a guide to policies, benefits, and general information that should assist you during your employment. *However, neither this handbook, nor any other Town communication or practice, creates an employment contract. The Town reserves the right to make changes in content or application of its policies as it deems appropriate. These changes may be implemented even if they have not been communicated, reprinted, or substituted in this handbook. It is also understood that nothing in this handbook or any other policy or communication changes the fact that employment is at-will, for an indefinite period, and can be terminated at any time by you or the Town.*

The Town reserves the right to amend, modify or delete any policy or provision that is included in this handbook. Individuals other than the Board of Selectmen are not authorized to make any changes in policy. The Town retains all managerial and administrative rights and prerogatives entrusted to it and conferred on employers inherently and by law. The work rules contained herein are not intended to be a

comprehensive list of prohibited conduct and management retains the right to take disciplinary action, including suspension or termination.

No employee or representative of the Town other than the Board of Selectmen or a Statutory Town Board has any authority to enter into an employment contract or to change the at-will employment relationship or make any agreement contrary to the foregoing.

## **GENERAL STANDARDS OF CONDUCT**

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Town employees are expected to act honestly, conscientiously, reasonably and in good faith at all times regarding their responsibilities, the interests of the Town and the welfare of its residents. Under no conditions will any town employee ever retaliate or harass any taxpayer, resident, registered voter, colleague, or other person on account of political position, petition, or complaint. Such transgressions shall be subject to disciplinary action, up to and including termination

Employees are obligated to:

- be present at work as required and to be absent from the workplace only with proper authorization;
- carry out their duties in an efficient and competent manner, and maintain specified standards of performance;
- comply with reasonable employer instructions and policies and to work as directed;
- respect the privacy of individuals and use confidential information only for the purposes for which it was intended;
- neither use, nor allow the use of Town property, resources, or funds for other than authorized purposes and to use such equipment in a safe and efficient manner;
- wear provided uniforms while at work and not to wear them when not engaged in work activities; and,
- maintain all qualifications, licenses, or certifications as required.

## **MANAGEMENT RIGHTS**

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The employer has certain rights, powers, and responsibilities, which belong solely and exclusively to the employer including, but not limited to, the delivery of efficient quality services and the maintenance of fiscal integrity. *All employees are at will employees.*

The employer's rights, powers, and responsibilities shall include, but are not limited to, the right to:

- exercise control and discretion over its business, property, organization and technology including the determination of productivity standards and services to be provided;
- decide if any part of the whole of its operations shall continue to operate;
- determine qualifications for positions, create job descriptions, and establish and revise personnel policies, including evaluations;
- determine the composition of the work force and job classifications;
- establish work locations, number of facilities and staffing patterns;
- establish and enforce work rules and regulations;
- set work hours, including break times;
- require overtime work;
- appoint, promote, assign, direct and transfer its employees;
- suspend, demote, discharge or take any other appropriate action regarding its employees;
- discharge employees for any reason;
- take necessary actions required to conduct Town business during an emergency;
- contract out services;
- determine purchasing standards and appropriate use of equipment; and,
- modify these policies as needed.

The delivery of services to the public must be accomplished in a respectful, efficient and productive manner at all times.

## **AFFIRMATIVE ACTION/NON-DISCRIMINATION STATEMENT**

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The employer 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, sexual orientation, or age. The Town is an equal opportunity employer.

## **NO STRIKE OR LOCKOUT**

Because services provided to the Town are of a critical nature, it is paramount that all employees recognize the importance of avoiding disruptions to the work flow; therefore:

- employees are prohibited from taking part in strikes, sympathy strikes, sit-downs, slow-downs, stoppages of work or job-actions related to picketing or boycotts, mass sick outs or any other interference with the Town's ability to provide services to the public;
- in the event that there is a breach of the foregoing provisions, the town may resort to any disciplinary action, up to and including termination, and may pursue legal action.

## **NON-TOWN RELATED WORK**

Employees who perform tasks of a personal nature for any town official or other individual will be subject to disciplinary action, up to and including termination.

Notwithstanding the preceding, emergencies may occur during which time a town employee, during work hours, may perform an action that could be construed as a personal task. Such activities are to be reported to the supervisor and Select Board as soon as possible.

In the event that, during work hours and/or with town equipment, a town employee feels compelled to perform a task of a personal nature in behalf of any individual, such activities are to be reported immediately to the supervisor and/or Select Board.

## **LICENSURE/CERTIFICATION**

When required by job description, all employees must apply for and obtain MA licensure or certification within six months of eligibility date. If an employee does not become licensed or certified as required, the employee will be terminated. However, if the exam is not scheduled within the specified time frame and the employee can demonstrate that s/he has registered to take the exam, an extension may be granted to the date of the exam not to exceed six (6) months.

If an employee's license is suspended or revoked by the licensing authority, the town will terminate the employee with written notice of ten (10) days.

## **IMMIGRATION**

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. The Accounting Office has the forms required for this purpose.

## **PROBATIONARY PERIOD**

For the purpose of benefits, the first six (6) months of employment or re-employment after longer than a one (1) year absence shall be the probationary period. Probationary employees are eligible to earn health insurance benefits from the first day of employment. Probationary employees may use accrued sick leave from the first day of employment. No accrued sick or personal leave is payable if employment is terminated during the probationary period. Upon an employee's successful completion of the probationary period, eligible employees shall receive all employee benefits. Such benefits shall be accrued from the employee's date of hire or rehire.

The employer agrees to provide written feedback regarding a probationary employee's performance at the end of three (3) months, and at the end of the probationary period.

All employees, whether during the probationary period or not, are employees at-will, and as such may be terminated at any time.

## **JOB POSTINGS**

Notices of job vacancies shall be posted on the Town office building exterior bulletin board for a period of seven (7) calendar days. This provision shall in no way limit the employer's right to temporarily fill a new position or vacancy pending final selection of an applicant.

Job postings will contain the following information:

- a. position title;
- b. salary or salary range;
- c. a brief description of the duties;
- d. minimum qualifications;
- e. name and address to which to send applications; and,
- f. last day for filing applications.

The position shall be awarded based on an individual's qualifications. Individuals who apply for a position for which they appear to be qualified will be given due consideration. Work experience within the town and town residency shall be treated as positive factors.

## **JOB DESCRIPTION CHANGES**

Given the fluctuations in the marketplace and the changing needs of the town, job descriptions may need to be altered and when this occurs every effort will be made to provide at least a two (2) weeks notice.

## **REGULAR EMPLOYEES**

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Regular employees are defined as part-time or full-time employees who are appointed by the Select Board or their designee and to whom compensation is paid for services rendered. Regular employees must be regularly scheduled to work at least twenty (20) hours per week in order to be eligible for defined employee benefits.

## **FULL-TIME/PART-TIME/TEMPORARY EMPLOYEES**

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**Full-time employees** are those hired to work forty (40) hours per week.

**Part-time employees** are those hired to work less than forty (40) hours per week. Part-time employees who are regularly scheduled to work at least twenty (20) hours per week are eligible for benefits which shall be computed on an exact pro-rata basis. Part-time employees who are regularly scheduled to work less than twenty (20) hours per week are not eligible for benefits.”

The employer may need to hire a **temporary employee**. After one month, temporary employees will only be eligible for the following benefits:

1. Article – Overtime
2. Article – Holidays
3. Article – Sick, Vacation
4. Article – Travel Expense

**Temporary employees** may only be hired for up to one year at a time and each successive hire results in a one month hiatus before benefits may be used unless the Select Board determines otherwise.

## **WORK HOURS**

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The employer sets work hours, including break times. With prior approval from the Select Board, a supervisor may allow employees to schedule flexible hours.

In each 6-hour or more work-day, employees shall be entitled to a ½ hour unpaid meal break and a fifteen minute paid break during the first half of the work period. Morning break cannot be skipped to increase lunch to forty-five (45) minutes or to leave work early.

When changes in shift assignment, work hours, or schedules for employees are necessary, the employer will provide advance notice when possible.

## **WAGES**

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Employees will be paid at a rate agreed upon at the time of hire and periodic raises will be determined and provided by the Town at the discretion of the selectboard and when finances allow.

The employer may arrange direct deposit of payroll checks upon request by the employee. New employees shall be paid on the next scheduled pay day immediately following their date of employment, providing all necessary paperwork and information has been provided to the Town Treasurer no later than one week before that pay date.

Salaries will be paid bi-weekly.

## **OVERTIME**

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Employees who are not exempt from the overtime provisions of the Fair Labor Standards Act (FLSA) shall be entitled to overtime pay, as specified in such Act, for any hours worked in excess of forty (40) hours in a work week or eight (8) hours in a day. However, when work schedules are altered so that a normal work day is greater than eight (8) hours, overtime opportunities do not begin until the normal work shift ends. Any benefit leave time or holiday taken in the week does count as work time and does count in the calculation of overtime hours.

For staff eligible for overtime as defined in the provisions of the FLSA, the supervisor must approve the overtime prior to the employee working the overtime hours.

In the event that employees are called back to work outside of their normal shift assignment or after the completion of a work shift, a minimum of four hours of overtime compensation will be paid. This section only applies if the employee has actually left the work site and then is called back to work. If an employee is required to work contiguous to his/her normal schedule, he/she will not be entitled to the benefit referenced in the first sentence above.

## **SUPERVISION**

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Employees shall receive appropriate supervision as determined by the employer.

No employee is permitted to supervise a relative or someone with whom they have had a personal relationship.

Supervisors are expected to complete yearly written performance appraisals during the month of the original hire date. Supervisors must place the signed evaluation in the employee's official personnel file. Employees may choose not to sign their performance appraisal. In the event this occurs, the supervisor must sign and date it and indicate the employee has chosen not to sign it.

## **CONFLICT RESOLUTION**

Though all efforts should be made to minimize conflict, there are times when conflict arises. When conflicts arise and whenever possible, the employee should bring it to the attention of her/his immediate supervisor before bringing it to the attention of the Select Board. Unless the conflict is with the immediate supervisor and it involves an unsafe, unethical, or illegal situation, then the employee should bring it to the immediate attention of the Select Board.

## **PERFORMANCE APPRAISALS**

The Town will utilize its established Performance Appraisal system in order to accomplish several goals:

- a. to continuously improve the effectiveness and efficiency of Town services
- b. to provide an opportunity for two-way communication and planning between employees and supervisors
- c. to assist employees in increasing the effectiveness of their job performance
- d. to provide a mechanism for the establishment of individual and department goals
- e. to serve as the basis of acknowledging employee's accomplishments and recognizing employee's potential need for guidance, training, and/or support
- f. to provide documentation of employee performance to serve as the basis for personnel actions

It is the policy of the Town that all full-time and permanent part-time employees will be evaluated on an annual basis. Additionally, employees who are nearing the end of the probationary period will be evaluated prior to the determination as to whether the employee should be retained on a permanent basis. Employees remain at-will after the probationary period.

## **PERSONNEL FILES**

A centralized personnel file shall be kept for each employee and access is restricted to Select Board or their designee.

Such files shall include applications, copies of licenses, evaluations, reports, and records pertinent to an employee's employment. To ensure the uniformity and confidentiality of employee personnel files, content of and access to files is limited.

All medical-related information will be kept segregated.

Upon written request to Select Board or their designee, the employer will grant employees escorted access to their individual personnel file and provide a copy of such record for a reasonable charge. Employees shall have the right to insert

statements of clarification or rebuttal in their personnel file. The employer agrees that all employee warnings, performance evaluations or other material relating to an employee's character, behavior or competence placed in said file shall be signed.

Documents may only be removed if there is a clear and compelling reason to do so. The employee should forward a request to his or her supervisor. The supervisor will forward the request, and a letter of support or denial, to the Selectboard.

The Selectboard or their designee will make a determination as to whether or not the material in question should be removed from the employee's personnel file. If the employee is not satisfied as to the decision, he or she may file an appeal with the Select Board.

## **RESIGNING/SEPARATING FROM EMPLOYMENT**

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Employees shall provide the employer in writing with at least two (2) weeks notice of their intent to resign their position. Notice shall be submitted to the employee's supervisor.

Vacation or personal leave may not be taken during the notice period without prior approval by the supervisor. All work related items must be returned upon separation from employment. The employer will provide information on unemployment, if applicable, and COBRA.

## **LAYOFFS**

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When necessary, the Town shall determine the activities, operations or duties to be discontinued or curtailed and the number and classifications of employees to be laid off due to reorganization, lack of work, fiscal shortfall, or any other reason.

If the Town determines that a layoff is necessary, the Town shall notify in writing the affected employee(s) two weeks in advance or earlier when possible. An effort will be made to meet with the employee to discuss the layoff.

### **Layoff Procedure**

- A. The Town will post a notice announcing the layoff and the affected classification(s), and the number of employees. The employer may exempt from layoff:
  - 1. any employee required in order for the Town to remain in compliance with, and reimbursable under, any law, regulation or contract;
  - 2. any employee with special job-related skills;
  - 3. any employee whose layoff would result in a loss of a contract to the town; and,
  - 4. any employee whose loss would be inconsistent with the Town's affirmative action goals.
- B. Any employee within the affected classification willing to accept voluntary layoff shall apply in writing to the Select Board within the period specified in the notice. The Select Board has the right to reject such offer.
- C. An employee who is laid off will retain all accrued benefits as of the date the employee was laid off for a period not to exceed twelve months. The employee will not accrue additional benefits during such layoff.

### **Recall.**

- A. Employees laid off shall have recall rights within a period not to exceed twelve months.
- B. Employees being recalled shall be notified by the Select Board via registered and first class mail sent to the last address provided to the employer. The employee is required to keep the employer notified of changes of address or telephone number.

## **GRIEVANCE PROCEDURE**

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Prior to filing a grievance, employees are encouraged to meet with their supervisor in an attempt to resolve the alleged violation of these policies. The supervisor is encouraged to meet with the employee within five (5) working days to begin resolution. If within ten (10) working days of this meeting, the employee feels that an adequate plan towards resolution of the alleged violation has not been made then the employee may file a grievance.

*A grievance shall be defined as a dispute arising between the employee and supervisor concerning the meaning or application or performance or breach of any of these policies.*

The grievance process is as follows:

### **STEP 1.**

The employee shall take up the grievance with his or her immediate supervisor within thirty (30) calendar days of the alleged violation. The written grievance should describe the section of these policies allegedly violated, the date(s) of the alleged violation, the nature of the alleged violation, and any attempts that have been taken to resolve the alleged violation. If the matter has not been resolved with ten (10) working days, it may be appealed to Step 2.

### **STEP 2.**

Within ten (10) working days after receipt by the Select Board of the written grievance, the employee, if he or she chooses, shall meet with the Hearing Officer or Select Board in Executive Session and attempt to settle the grievance. The Hearing Officer or Select Board shall respond in writing within ten (10) working days. The Hearing Officer or Select Board's determination shall be final.

*An employee directed to perform a reasonable task, will not refuse to perform the task as long as the task does not present a clear and eminent danger to the health or safety of the employee or another. After completion of the assigned task, an employee may file a grievance if deemed necessary.*

## **DISCIPLINARY ACTION**

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The following are examples of conduct which will result in disciplinary action, up to and including termination. Said examples are merely representative and are not meant to be all inclusive:

- a. willful neglect or non-performance of job duties or tasks;
- b. demonstrated incompetence in the performance of one or more job duties or tasks;
- c. behavior that seriously interferes with the normal operation of the Town, the department or any members of the work force;
- d. insubordination, which means a refusal to carry out a directive or order;
- e. dishonesty in the performance of assigned duties;
- f. chronic unexcused absenteeism or tardiness;
- g. unauthorized possession or use of alcohol or illegal drugs or an un-prescribed controlled substance; and
- h. theft of Town property, which includes unauthorized use of town property for personal benefit.

The employer will notify the employee in advance of any disciplinary action whenever feasible.

The employer reserves the right to place an employee who has been arrested or arraigned through a state or federal court for a crime involving moral turpitude on an unpaid leave of absence until the employer completes its investigation. The employer reserves the right to terminate any employee who has been arraigned for any crime involving moral turpitude.

In the event that an employee is being considered for termination from employment, the employee will have the right to a termination hearing with the Select Board. Pending the hearing and final resolution, the employee will be placed on administrative leave with pay. A final determination will be provided in writing from the Select Board to the employee within three business days of the hearing unless the employee is notified differently.

*Nothing in this Article alters an employee's status as an at-will employee.*

## **ABSENCES AND LEAVES**

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Circumstances arise that may require an employee be absent from work. To ensure uniformity of practice, all requests for scheduled absences or leaves shall be in writing, and shall be approved by the supervisor in accordance with applicable policy.

The request should include:

- the reasons for the leave;
- the expected duration of the leave; and,
- any required documentation supporting the leave.

Benefit time will not accrue during any unpaid leave of absence and an employee on an unpaid leave of absence shall not be paid for holidays while the employee is on such leave.

When returning from a non-FMLA leave of thirty (30) days or less, an employee shall be returned to his or her former position unless such position no longer exists. For non-FMLA leaves greater than thirty (30) days, an employee will not be guaranteed an immediate position upon return from such leave though all efforts will be taken to reinstate this person to any available vacant position for which he or she is qualified.

Employees returning from a leave of absence in which benefit time was used shall retain their seniority, which existed at the beginning of such leave. Employees returning from an unpaid leave will be reinstated with their seniority at the start of the unpaid leave or at which time the leave becomes an unpaid one.

An employee on extended leave of absence must contact the Select Board at least thirty (30) days prior to the expiration of his or her leave to request reinstatement. Otherwise, the employee will be considered as having voluntarily resigned his or her position.

### **Family and Medical Leave**

#### GENERAL PROVISIONS

It is the policy of the Town to grant family and medical leave in accordance with the Family and Medical Leave Act of 1993 (FMLA). The leave may be paid, unpaid, or a combination of paid and unpaid, depending on the circumstances as specified in this policy.

#### ELIGIBILITY

In order to qualify to take family and medical leave under this policy, the employee must meet **all** of the following conditions:

- 1) The employee must have worked for the Town at least 12 months, or 52 weeks. The twelve months, or 52 weeks, need not have been consecutive. For eligibility purposes, an employee will be considered to have been employed for an entire week even if the employee was on the payroll for only part of a week or if the employee is on leave during the week.
- 2) The employee must have worked at least 1250 hours during the twelve month period immediately before the date when the leave would begin.

### **Type of Leave Covered**

In order to qualify as FMLA leave under this policy, the employee must be taking the leave for one of the reasons listed below:

- 1) the birth of a child and in order to care for that child;
- 2) the placement of a child for adoption or foster care;
- 3) to care for a spouse, child, or parent with a serious health condition; or
- 4) the serious health condition (described below) of the employee.

A spouse is defined under State law. (This definition does not include common law relationships).

A parent is defined as a biological parent or stood in "loco parentis" to the employee and may include adoption, foster, or step relationships. The term does not include parent "in law".

A son or daughter is defined as a child under 18 years of age, or 18 years or older who is incapable of self-care because of a mental or physical disability. An employee's "child" is one for whom the employee has responsibility for the actual day-to-day care and includes a biological, adopted, foster or step-child.

An employee may take leave because of a serious health condition that makes the employee unable to perform the functions of the employee's position.

A serious health condition is defined as a condition which requires inpatient care at a hospital, hospice, or residential medical care facility, or a condition which requires continuing care by a licensed health care provider.

A health care provider is defined as: a doctor of medicine, doctor of osteopathy, podiatrist, dentist, clinical psychologist, optometrist, chiropractor, nurse practitioner, nurse midwife, and Christian Science practitioner.

This policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long term condition which, if left untreated, would result in a period of incapacity of more than three days, would be considered a serious health condition.

Employees with questions about what illnesses are covered under this FMLA policy or under the Town's sick leave policy are encouraged to consult with the Board of Selectmen.

The Town may require an employee to provide a doctor's certification of the serious health condition. Examples of a serious health condition include: heart attacks or other serious heart conditions, most cancers, strokes, appendicitis, pneumonia, and ongoing pregnancy and prenatal care.

An eligible employee can take up to 12 weeks of leave under this policy during any 12 month period. The town will measure the twelve month period as a rolling 12 month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes leave, the town will compute the amount of leave the employee has taken under this policy and subtract it from the 12 weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time.

For example, if an employee used four weeks of FMLA leave beginning February 1, 2008, four weeks beginning June 1, 2008, and four weeks beginning December 1, 2008, the employee would not be entitled to any additional leave until February 1, 2009. On February 1, 2009, the employee would be entitled to four weeks of leave.

If a husband and wife both work for the Town, and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (but not a parent "in-law") with a serious health condition, the husband and wife may only take a combined total of 12 weeks of leave. See also Massachusetts Maternity Leave Act Policy.

#### **Procedure for Requesting Leave**

Except where leave is not foreseeable, all employees requesting leave under this policy must submit the request in writing to their immediate supervisor, with a copy to the Board of Selectmen.

When an employee plans to take leave under this policy, the employee must give the Town 30 days notice. If it is not possible to give 30 days notice, the employee must give as much notice as is practicable. An employee undergoing planned medical treatment is required to make a reasonable effort to schedule the treatment to minimize disruptions to the Town's operations.

An eligible female employee is required to provide only 2 weeks notice for leave related to birth of a child or adoption of a child.

If an employee fails to provide 30 days notice for foreseeable leave with no reasonable excuse for the delay, the leave request may be denied until at least 30 days from the date the employee receives notice.

While on leave, employees are requested to report periodically to the Board of Selectmen regarding the status of the medical condition, and their intent to return to work.

### **EMPLOYEE STATUS & BENEFITS DURING LEAVE**

While an employee is on leave, the Town will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work up to a maximum of 12 weeks during any 12 month period.

If the employee chooses not to return to work for reasons other than the employee's continued serious health condition, the Town will require the employee to reimburse the Town the amount it paid for the employee's health insurance premium during the leave period.

Under current Town policy, the employee pays a portion of the health care premium. While on paid leave, the employer will continue to make payroll deductions to collect the employee's share of the premium. While on unpaid leave, the employee must continue to make this payment, either in person or by mail. The payment must be received in the Treasurer Office by the 1st day of each month. If the payment is more than 30 days late, the employee's health care coverage will be dropped for the duration of the leave.

If the employee contributes to any other benefit plan, the employer will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the employee must continue to make those payments, along with the health care payments. If the employee does not continue these payments, the company will discontinue coverage during the leave period.

### **EMPLOYEE STATUS AFTER LEAVE**

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.

If the employee does not return at the end of the leave period, the employee's notification of his/her intent not to return will be the COBRA qualifying event. The Employee should consult the Town's COBRA policy.

### **Use of Paid and Unpaid Leave**

If the employee has accrued paid leave the employee may:

1. Use accrued paid leave until the leave is exhausted and then the employee will be placed in an unpaid status.
2. Use a designated amount of paid leave and then the employee will be placed in an unpaid status.
3. Remain in an unpaid status for the duration of the leave.

The Employee must choose one of the above three options prior to the commencement of the leave. If paid leave is being utilized, the paid leave must be taken at the commencement of the leave period.

Paid sick leave may be utilized only if the employee is physically unable to perform the requirements of his/her position.

### **INTERMITTENT LEAVE OR A REDUCED WORK SCHEDULE**

The employee may take FMLA leave in consecutive weeks, may use the leave intermittently (take a day periodically when needed over the year), or under certain circumstances may use the leave to reduce the work week or work day, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 weeks over a 12 month period. The Town may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule.

For the birth, adoption or foster care of a child, the Town and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced hour schedule. Leave for birth, adoption, or foster care of a child must be taken within one year of the birth or placement of the child.

If the employee is taking leave for a serious health condition or because of the serious health condition of a family member, the employee must reach agreement with the Town before taking intermittent leave or working a reduced hour schedule. If this is not possible, then the employee must prove that the use of the leave is medically necessary. The Town may require certification of the medical necessity.

### **CERTIFICATION OF THE SERIOUS HEALTH CONDITION**

The Town may ask for certification of the serious health condition. The employee is required to respond to such a request within 15 days of the request, or provide a reasonable explanation for the delay. Failure to provide certification will result in a denial of continuation of leave. Medical certification must be provided by using the Medical Certification Form contained in Appendix A to this policy.

Certification of the serious health condition shall include: the date when the condition began, its expected duration, diagnosis, and a brief statement of treatment. For medical leave for the employee's own medical condition, the certification must also include a statement that the employee is unable to perform work of any kind or a statement that the employee is unable to perform the essential functions of the

employee's position. For a seriously ill family member, the certification must include a statement that the patient requires assistance and that the employee's presence would be beneficial or desirable. The Town has the right to require that the employee be examined by the Town's Occupation Health Physician if it wishes to verify the certification.

### **Other Leaves**

Any leave of absence taken must be taken concurrently with FMLA leave, where applicable.

### **Sick Leave**

- A. Sick leave shall be defined as absence from work due to illness; medical, dental, mental health, or optical appointments of an employee or his or her family, defined as parents, spouse, declared domestic partner and children.
- B. Sick leave shall be applicable only if the employee or his or her immediate family member is ill on days during which the employee is normally scheduled to work. An employee shall be paid at his or her straight time hourly rate for the normal workday. The employer shall not pay sick leave to any employee injured in an accident compensated by worker's compensation or other disability plan.
- C. A claim of sickness or illness must be supported by satisfactory medical evidence if the employer so requests and be presented on official letterhead of a state certified or licensed health professional. Satisfactory medical documentation must include the following:
  - Dates of sickness or illness
  - Detailed diagnosis
  - Prognosis with expected date of return to work
- D. Supervisors shall grant sick leave with pay to all employees according to the following provisions:
  - the supervisor must be notified through a leave request form at least two days in advance of sick leave taken for mental health, medical, dental, or optical appointments, unless it is an emergency;
  - the supervisor must be notified at least one hour before the employee's scheduled reporting time when calling in sick;
  - sick leave with pay may not exceed the total amount credited to any employee at the time of their illness; and,
  - for non-probationary employees, vacation leave or other accrued leave must be used for sick leave when sick leave accruals have been exhausted.
- E. Leave without pay may be granted, at the discretion of the Select Board, for illness extending beyond the earned sick leave and other accrued benefit leave.

If applicable, this absence will be counted toward the twelve weeks of FMLA that an eligible employee is entitled to.

- F. Sick leave shall be credited to employees at the rate of eight hours (8) per month for full-time employees for every month of employment or on a pro-rata basis for part-time employees.
  - 1. Sick leave not used in any year may be accumulated to a total of four hundred and eighty (480) hours for fulltime employees and on a pro-rata basis for part-time employees. At no time in any fiscal year, can sick leave accruals exceed a balance of four hundred and eighty (480) hours.
- G. Sick leave shall be debited on the basis of the exact number of hours an employee is scheduled to work in the period when sick leave is taken.
- H. At time of termination, accrued sick leave shall not be paid to an employee.
- I. The Select Board or designee may require an employee returning from sick leave to submit a statement from a state certified or licensed health professional that the employee is able to perform his or her job functions before being allowed to return to work. The employer may require an independent medical examination at the employer's expense.
- J. False or fraudulent use of sick leave by an employee shall be grounds for disciplinary action up to and including termination.

*Sick leave abuse is defined as unexcused absences, patterned absences (those absences periodically recurring in relation to a work schedule day, calendar day, holiday, or other recurring event), and/or frequent absences.*

### **Small Necessities Leave Act**

Employees may be granted up to twenty-four (24) hours per year of family leave, either paid or unpaid to attend to family obligations, which may include participation in a child's school activities, or the accompaniment of a child or elderly family member to a regular medical or dental appointment. If paid, the employee must use accrued benefit time appropriate to the occasion.

### **Maternity Leave**

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.

### **Personal Time**

During the first two years of employment, each full-time employee shall be entitled to eight (8) hours of personal time off with pay each year. Thereafter, each full-time employee shall be entitled to twenty-four (24) hours personal time off with pay in each fiscal year pro-rated for employees working less than forty (40) hours per week. Personal time shall be apportioned on an exact pro-rata basis for employees newly hired during the course of the fiscal year.

Employees shall submit a leave request form for time off at least two (2) business days in advance to their supervisor of their desire to take personal time off. Personal time off shall be scheduled by the employer as requested providing normal town operations are not adversely affected.

Personal time cannot be rolled over into the next fiscal year.

### **Unpaid Personal Leave**

An unpaid personal leave of absence of up to two (2) weeks may be granted to employees but must be approved in writing by the employee's supervisor and the Selectboard in advance of the leave.

### **Bereavement Leave**

In the event an employee suffers a death of his or her immediate family, the employee shall be entitled to up to four (4) consecutive days off with no loss of salary or benefits, meaning that compensation should be equal to the employee's normal work hours for the week. For purposes of applying this benefit, the term "immediate family member" shall include: spouse or domestic partner, parent, spouse's or domestic partner's parent, child, brother, sister, grandchild, aunt or uncle, brother-in-law, sister-in-law, or grandparents.

### **Civic Duty Leave**

- A. Employees summoned for jury duty will be granted a leave of absence with pay not to exceed three (3) work days for time lost from their regular work schedule while on jury duty upon presentation of the appropriate summons (or a copy of same) and court certification of attendance of jury duty to their supervisor.
- B. An employee who receives jury fees for jury service shall either:
- retain such jury fees in lieu of pay for the period of jury service if the jury fees exceed his or her regular rate of compensation for the period involved;
  - remit to the employer the jury fees if less than his or her regular rate of compensation for the period involved; and,
  - declare the day(s) in question as vacation or personal time and retain such jury fees.
- C. Employees required to report to court in response to a work related subpoena shall receive their regular salary minus the amount of any applicable witness fees.

## **RESTRICTED DUTY**

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The restricted duty policy applies to all fulltime or part-time employees who have experienced personal or work-related injuries or illnesses which are temporary, non-chronic, and of short duration. The employee must be capable of performing the essential functions of his or her position.

The restricted duty time period will be for a maximum of six full work weeks. The employee will return to full pay as long as the essential functions of the job can be performed.

Prior to the employee's return to work, a detailed statement from a state certified or licensed health professional must be provided. It must meet the following criteria:

- be on licensed health professional letterhead;
- describe in detail the injury or illness;
- describe what essential functions of the position can or cannot be performed; and,
- prognosis of when employee may return to full duty without restrictions.

The statement will be provided to the immediate supervisor, Select Board. The supervisor will consult with the Select Board before granting a return to work on restricted duty. If granted, a letter will be provided to the employee.

If, at the end of the six week period, the employee is unable to return to full duty without restrictions, the employee will return to paid sick leave, leave without pay, workers compensation, or the status held prior to restricted duty return to work.

## **HOLIDAYS**

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The following shall be recognized as paid holidays for all eligible employees:

*New Year Day, Martin Luther King Day, President's Day, Patriots Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day*

Employees do not work on designated holidays unless directed to by the Select Board or designee. Only employees normally scheduled to work on the holiday are eligible for compensation. For those eligible, employees will be paid an amount equal to their regular work hours provided they have worked a regularly scheduled day immediately preceding and immediately following the holiday.

Employees who are required to work on holidays shall receive holiday pay plus overtime pay for each hour worked.

Eligible part-time employees shall be paid at their regular hourly rate on a pro-rata basis for the holidays listed above.

When a holiday falls on Sunday, the following Monday shall be considered the holiday. When a holiday falls on a Saturday, the prior Friday shall be considered the holiday.

## **VACATIONS**

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Eligible fulltime employees shall accrue vacation at the rate of three and four tenths (3.4) hours per month during their first year of employment. After completion of one (1) year of employment, vacation leave shall be accrued at the rate of six and seven tenths (6.7) hours per month. After completion of five years of employment, vacation leave shall be accrued at the rate of ten (10) hours per month.

Part-time employees will earn vacation leave as described above on an exact pro-rata basis.

Full-time employees may rollover forty (40) hours of accumulated vacation leave from one fiscal year to the next. The total accumulated vacation leave cannot exceed one hundred sixty hours (160) in any given fiscal year for a full-time employee or pro-rata basis for a part-time employee.

An employee who is permanently separated from employment for any reason shall receive pay for all accumulated vacation leave at the time of separation.

Vacation requests must be submitted on a leave request form at least seven (7) days in advance of the first day requested except during heavy vacation times as

determined by the employer. At these times, vacation requests must be submitted at least twenty-one (21) days in advance and will be granted on the basis of departmental seniority within seven (7) business days of the request. Request submitted after established timelines may be approved on a first request basis within the department.

## **MILITARY SERVICE**

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As required by state and federal law, the employer will grant an unpaid leave of absence to an employee inducted into the Armed Forces of the United States. The reinstatement and benefit rights of such employee shall be as set forth in the Universal Training Service Act, as amended or superseded from time to time. Any employee shall be entitled to a leave of absence during the time of his/her compulsory service in the armed forces of the Commonwealth or during a compulsory annual tour of duty not exceeding seventeen (17) days as provided in Chapter 33, Section 59 of the General Laws as a member of a reserve component of the armed forces of the United States, and shall receive his/her ordinary remuneration therefore. He/she shall also be entitled to the same leave of absence or vacation with pay given to other like employees.

## **ACCOMODATIONS AND TRAVEL EXPENSES**

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With advance supervisory approval, travel in the course of the employee's work when the employee is using a personal vehicle shall be reimbursed at the Standard Mileage Rate as defined by the I.R.S. in effect as of January 1st of the year on which the travel occurs. Tolls will be reimbursed with appropriate original receipts. Reimbursement for travel overnight will include room and parking fees only. No other costs associated with an overnight stay will be reimbursed by the Town.

The employee must submit the appropriate written documentation including odometer readings, original receipts and supervisory signoff.

- A. The employee must submit the request for reimbursement no later than twenty (20) working days following the end of the month in which the expense occurred.
- B. The employer will reimburse the employee no later than thirty (30) days after submission of the appropriate claim to the employer on the condition that all paperwork is complete, original and accurate.

## **HEALTH AND LIFE INSURANCE BENEFITS**

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The employer shall provide health insurance plans to eligible employees.

Employees, who are employed for at least twenty (20) hours per week on a regular basis, may elect to be covered by the town's insurance coverage. The employer will pay sixty percent (60%) of the base rate of either an individual policy or a family policy that may include declared domestic partners and their dependents.

If an employee is on an approved unpaid leave of absence due to his/her own illness, the employee may continue to participate in group health insurance coverage through the timely remittance of his/her regular portion of the premium to the employer."

The employer will provide each employee with a limited amount of term life insurance.

## **LIABILITY INSURANCE**

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The employer shall provide each employee with liability insurance that exempts the employee from individual liability arising out of the normal course and scope of their employment.

## **PRE-TAX BENEFIT PLAN**

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The employer will provide administration services for a pre-tax benefit plan available to all employees for eligible health care, dependent care, and annuity expenses. The provisions of the plan may change from time to time in response to applicable state and federal law or regulation.

The employer will be held harmless against all claims, suits, and damages arising out of the employer's administration of this plan.

## **HEALTH AND SAFETY**

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The employer and its employees resolve to maintain a safe and healthy workplace and to comply with all applicable federal, state and local health and safety laws and regulations

Employees agree to comply with all of the applicable state and federal safety and health policies and also those of the employer. The employer reserves the right to make reasonable requests to ensure the safety of town employees.

Any health or safety hazard or violation of applicable law must immediately be reported to a supervisor. In the event that the situation is not rectified, the employee will bring the concern to the immediate supervisor who will respond within one normal business day. If the response is not satisfactory, the complainant may take the concern to the Select Board for final resolution.

The Town maintains a drug, alcohol and smoke-free work place, which includes vehicles and Town buildings, structures and grounds at all times.

## **VEHICLE USE**

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Town vehicles should be viewed as belonging to the citizens of the Town and are assigned solely for the purposes consistent with providing services to those citizens. Failure to comply with any and all of these provisions may result in the loss of Town vehicle use and/or disciplinary action, up to and including termination.

Town vehicles are not personal vehicles and are not for personal use. No one except town employees are allowed to drive, or ride in, any town vehicles at any time.

- The assignment of Town vehicles during work time is based upon job description.
- The assignment of vehicles for 24-hour use will be determined by the Select Board.
- The assignment of vehicles may be rescinded at any time for any reason by the Select Board.

Town vehicles may only be used for legitimate Town business; and employees must:

- wear seatbelts in vehicles so equipped during operation of the vehicle;
- maintain and have vehicles routinely serviced;
- get prior approval from the Select Board for out of state travel;

- not operate vehicles under the influence of alcohol, illegal drugs, or prescription drugs or medications which may interfere with effective and safe operations;
- have a valid motor vehicle license issued by the state of their current residence and may be required to provide proof of valid motor vehicle license once every six (6) months;
- pay parking and other fines incurred while driving Town vehicles unless determined otherwise by the Select Board;
- notify supervisor or the Select Board for any citation or offense while using a Town vehicle. This notification must occur within one business day;
- notify supervisor or Select Board whenever s/he is arrested for or charged with a motor vehicle offense for which the punishment includes suspension or revocation of the motor vehicle license, whether in his or her personal vehicle or in a Town vehicle. This notification must occur within one business day; and,
- conviction for such an offense may be grounds for loss of Town vehicle privileges and/or further disciplinary action.

## **COMPUTING GUIDELINES AND ACCEPTABLE USE**

This policy is provided to give employees and officials a guideline for acceptable computer usage. In support of the Town's business, the Town provides computers, computer software and technology, and internet access as determined by the Select Board. All employees and officials are expected to use technology resources in a responsible manner, respecting the public trust through which these resources have been provided, the rights and privacy of others, and state and federal laws.

Each employee has an obligation to abide by the following standards of acceptable and ethical use:

- use only those technology and computing resources for which they are authorized;
- town computers and resources can only be used for official town purposes. No personal software, documents, or files should be installed, used or stored on town computers at any time.
- use computing and information technology resources only for their intended purposes;
- safeguard the integrity, accuracy, and confidentiality of Town of Goshen data by taking all reasonable steps to protect Town of Goshen data and computer systems/resources from theft; destruction; unauthorized access or any form of compromise resulting from intentional, negligent acts, or omissions;
- respect the privacy and personal rights of others; and,
- protect the confidentiality of personal identification codes and passwords, guard against unauthorized access to computer accounts, software, files, and other technology resources.

All activity should be conducted in accordance with his or her role and responsibilities at the Town. Individuals accessing Town data and/or computer systems will only access the data and/or computer systems for which they have been given authorization. This access should not be shared, transferred, or delegated unless approved by the Select Board. Town E-mail is made available to employees or officials for the purpose of conducting Town business. *Personal use of town computers or software is not allowed at any time for any reason.*

Employees must not share their password(s) or login(s) with anyone and should not type a password when someone is watching.

**The Selectboard or their designee has the authority and reserves the right to examine material stored on or transmitted through its resources at any time without notice.**

No Town data or business should be released or shared with any outside interest without prior authorization from the Select Board.

Individuals will not:

- perform or assist in the performance of any act that will interfere with the normal operation of Town business;
- illegally solicit or distribute copyrighted software;
- use Town computer systems or technology for monetary gain or illegal activities; and,
- use Town data or computing resources or technology to violate state or federal laws and regulations.

Violation of this policy may result in an employee being denied or given limited access to Town data, applications, technology, and computer systems or any other disciplinary action up to and including termination. In addition, an employee or official may be charged with criminal offenses or have civil action taken for computer abuses or violation of law within the confines of law.

## **ALCOHOL AND DRUG FREE WORKPLACE POLICY**

The Town of Goshen seeks to ensure a safe, healthy and productive work environment for all employees and prohibits the use or possession of alcohol or illegal substances in the workplace. The Town reserves the right to search any Town property at any time and without prior notice. The Town's right to search its property includes, but is not limited to, offices, lockers, desks, or Town vehicles.

In the event that substance abuse affects job performance, the employer will take necessary disciplinary steps to address this problem, up to and including termination.

In a further effort to safeguard its employees, this policy calls for disciplinary action, up to and including termination, in instances where employees are found to have engaged in the unlawful manufacture, distribution, dispensing, possession, or use of an illegal or controlled substance in the workplace.

## **ALCOHOL AND DRUG TESTING POLICY**

All employees who operate a commercial motor vehicle in interstate or intrastate commerce and possess a commercial driver's license are subject to the following.

### **Alcohol and Drug Prohibitions**

A driver may not report for duty or stay on duty with a blood alcohol concentration of 0.04 or greater or within four hours of using alcohol.

- A driver who has an accident may not use alcohol until post-accident testing is done or for a period of eight hours, whichever comes first.
- Drivers cannot refuse to submit to alcohol testing.
- Drivers may not report for duty or stay on duty if they have tested positive for a controlled substance.

### **Alcohol and Drug Testing**

Testing to determine the presence of alcohol and/or drugs may be performed in any of the following situations:

- A. Pre-Employment: for any new hire that is required to possess a Commercial Driver's License (CDL).
- B. Post-Accident: Following an accident where a life was lost or the driver was cited for a moving traffic violation. Post-accident alcohol testing shall be done within two hours of the accident, or not at all. Post-accident drug testing shall be done within 32 hours, or not at all.
- C. Reasonable suspicion: If your supervisor has reason to believe that your behavior or appearance may indicate alcohol or drug abuse, he or she may require you to be tested.

- Alcohol testing for reasonable suspicion must be done within two hours of the observation. Tests that cannot be done within eight hours of the observation shall not be done.
  - An employee cannot report for duty or stay on the job while under the influence of alcohol or while impaired by alcohol as shown by behavior, speech or performance that indicates alcohol misuse.
  - Action regarding alcohol misuse cannot be taken against a driver unless an alcohol test was administered or was refused by the driver.
- D. An employee must submit to alcohol and drug testing as required. If an employee refuses to be tested, the employee will be placed on an unpaid leave pending resolution.
- E. All alcohol and drug testing will be conducted at the Cooley Dickinson Hospital.
1. Alcohol screening results, if
    - the reading is less than 0.02; the employee will sign the certificate and fill in the date on the form. The test will be reported as negative to the employer;
    - the reading is 0.02 or greater; a confirmation test must be done (after 15 minutes but within 20 minutes of the first test). The employee will be asked not to eat, drink, belch or put anything in his or her mouth;
    - this test confirms the initial reading; the employer will be notified.
  2. Drug screening results, if
    - after being notified that the first drug test was positive, the employee has 72 hours to request a repeat test;
    - the second analysis does not confirm the presence of a drug, the test is cancelled and all necessary parties are notified; and,
    - the results are confirmed as positive, the employer will be notified.

### **Violation of Policy**

Consequences for violating the alcohol or drug prohibitions are as follows:

- A. Alcohol Violations: cannot return to operating or driving duties until an evaluation has been done and any recommended treatment is completed.
  - Employees with an alcohol concentration of 0.02 or greater but less than 0.04 are prohibited from returning to operating or driving duties for at least 24 hours.
- B. Drug violations: cannot return to operating or driving duties until an evaluation has been done, recommended therapy is completed, and a verified negative drug test is produced.
- C. Employees will be placed on an unpaid leave pending resolution of all alcohol and drug prohibition matters.
- D. Discipline up to and including termination.

### **Return to duty**

## Town of Goshen - Employee Handbook

In order to return to work, an alcohol concentration of less than 0.02 or a negative drug test is required. A minimum of six tests shall be performed during the first year back. However, follow-up testing may continue for up to five years. The alcohol and drug rule requires that the Town, as the employer, provide the employee with an opportunity for treatment. The ruling does not, however, require the Town to hold a job open for the employee or to pay for rehabilitation.

## **HARASSMENT POLICY**

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Harassment is conduct that undermines the integrity of the employment relationship. The town of Goshen maintains a strict policy prohibiting harassment.

### **Definition**

Harassment includes, but is not limited to slurs, jokes, other verbal, graphic or physical conduct relating to an individual's race, color, sex, sexual orientation, religion, national origin, age or physical or mental handicap/disability.

### **Policy**

It shall constitute a violation of the Town's policies for any manager, supervisor, or employee to engage in any act or behavior defined herein as harassment. Retaliation against an individual who has filed a harassment charge or against an individual for cooperating with an investigation of a harassment charge will not be tolerated.

- A. The Town will take immediate disciplinary action, up to and including termination when any manager, supervisor or employee is determined to have violated this policy.
- B. Any manager or supervisor who is made aware of harassment and fails to take corrective action pursuant to this policy will be subject to disciplinary action, up to and including termination.

### **Harassment Charge Procedure**

Any employee who believes he or she has been the subject of harassment should report the alleged act immediately to the employee's immediate supervisor, or the Select Board. If a complaint involves the employee's supervisor, the employee should file the complaint with the Select Board.

All complaints will be handled in as timely and confidential a manner as possible. No adverse employment action will occur to any employee who makes a bona fide charge of harassment.

- Investigation of a complaint will normally include conferring with the parties involved and any named or apparent witnesses.
- If the investigation reveals that the charge is valid, prompt attention will be taken to stop the harassment immediately. Disciplinary action will be pursued, up to and including termination.

To file a complaint of discrimination with state authorities, contact:

MA Commission Against Discrimination (MCAD)  
436 Dwight Street, Room 220  
Springfield, MA 01103  
(413) 739-2145

## **SEXUAL HARASSMENT POLICY/COMPLAINT PROCEDURE**

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### **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 Chief Administrative Officer, 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.

**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.

### **COMPLAINT 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 Chief Administrative Officer. The Department Head and/or Chief Administrative Officer 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 Chief Administrative Officer will act as the Sexual Harassment Compliance Officer.
4. If the alleged harassment involves the Chief Administrative Officer, the Clerk of the Board of Selectmen will act as the Sexual Harassment Compliance Officer.
5. The Chief Administrative Officer 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.

### **COMPLAINT PROCEDURE - FORMAL PROCESS FOR EMPLOYEES**

1. A complainant may file a formal complaint immediately or may do so after the Chief Administrative Officer 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 Chief Administrative Officer'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 Chief Administrative Officer'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 Chief Administrative Officer for a hearing unless the Chief Administrative Officer 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 Chief Administrative Officer 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 Chief Administrative Officer.

### **FORMAL HEARING**

1. The purpose of the hearing before the Chief Administrative Officer 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 Chief Administrative Officer 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 Chief Administrative Officer 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 Chief Administrative Officer 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.

### ***DECISION OF 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 Chief Administrative Officer, if the Chief Administrative Officer finds that the policy has not been violated, the Chief Administrative Officer 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 Chief Administrative Officer, if the Chief Administrative Officer finds that the charge of violating the Town's policy on sexual harassment has been substantiated, the Chief Administrative Officer will prepare findings and will determine a penalty for the respondent and relief for the complainant. The Chief Administrative Officer 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 Chief Administrative Officer 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.

## **AMERICANS WITH DISABILITIES ACT**

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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 qualification 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 business 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 Chief Administrative Officer 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 Chief Administrative Officer 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.

## **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.

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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 Chief Administrative Officer 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 Chief Administrative Officer.

Within 15 calendar days after receipt of the grievance, the Chief Administrative Officer will meet with the grievant to discuss the grievance and possible resolutions. Within fifteen (15) calendar days after the meeting, the Chief Administrative Officer 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 Chief Administrative Officer 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.

## **CONFLICT OF INTEREST/FINANCIAL DISCLOSURE**

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The purpose of this policy is to ensure that Town employees comply with the requirements of Chapter 268A of the Massachusetts General Laws which governs conduct as a public official or public employee. It is the policy of the Town to require compliance with the provisions of this law, as outlined below.

Chapter 28 of the Acts of 2009, the recently enacted ETHICS REFORM LAW, imposes new mandatory education and training requirements on public employees. These new requirements apply to all public employees, as defined by the conflict of interest law.

Town employees may not:

- ask for or accept anything (regardless of its value), if it is offered in exchange for the employee agreeing to perform or not perform an official act;
- ask for or accept anything worth \$50 or more from anyone with whom the employee has official dealings;
- hire, promote, supervise, or otherwise participate in the employment of the employee's immediate family or the employee's spouse's immediate family;
- take any type of official action which will affect the financial interests of the employee's immediate family or the employee's spouse's immediate family;
- take any official action affecting the employee's own financial interest, or the financial interest of a business partner, private employer, or any organization for which the employee serves as an officer, director or trustee;
- have a financial interest in a contract with the public employer except under special circumstances;
- ever disclose confidential information, data or material which the employee gained or learned as a public employee;
- take any action that could create an appearance of impropriety or could cause an impartial observer to believe the employee's official actions are tainted with bias or favoritism, unless the employee makes a proper, public disclosure including all relevant facts;
- use the employee's official position to obtain unwarranted privileges, or any type of special treatment, for the employee or anyone else; and,
- use public resources for political or private purposes.

### **Distribution of Conflict of Interest Summary**

On an annual basis every municipal employee will be given a summary of the conflict of interest law (as prepared by the State Ethics Commission). An acknowledgement of receipt of this summary must be filed with the Town Clerk within ten (10) business days of receipt of the summary. This summary does not mention every aspect of the law that may apply in a particular situation. Free confidential advice can be obtained from the Commission's Legal Division at their website, by calling the Commission at (617) 371-9500, or writing to One Ashburton Place, Room 619, Boston, MA 02108.

### **On-Line Training Requirements**

All municipal employees must complete the online training program that is currently on the Commission's website (a link is also available through the Goshen Town Website at [www.egoshen.net](http://www.egoshen.net)) within 30 days of becoming a public employee, and then once every two (2) years afterwards and must file with the Town Clerk the certificate of completion.

### **WHISTLEBLOWER POLICY**

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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 Chief Administrative Officer/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 Chief Administrative Officer/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 a 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 Chief Administrative Officer/designee. Town officials, administrators and supervisors shall take appropriate action to investigate and address complaints of retaliation. If the supervisor or the Chief Administrative Officer/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 Chief Administrative Officer/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

**CERTIFICATION OF PHYSICIAN OR PRACTITIONER**

(Family and Medical Leave Act of 1993)

1. Employee's Name:
2. Patient's Name (If other than employee):
3. Diagnosis:
4. Date condition commenced:
5. Probable duration of condition:
6. Regimen of treatment to be prescribed (Indicate number of visits, general nature and duration of treatment, including referral to other provider of health services. Include schedule of visits or treatment if it is medically necessary for the employee to be off work on an intermittent basis or to work less than the employee's normal schedule of hours per day or days per week.):
  - a. By Physician or Practitioner:
  - b. By another provider of health service, if referred by Physician or Practitioner:

**IF THIS CERTIFICATION RELATES TO CARE FOR THE EMPLOYEE'S SERIOUSLY-ILL FAMILY MEMBER, SKIP ITEMS 7, 8 AND 9 AND PROCEED TO ITEMS 10 THRU 14 BELOW. OTHERWISE, CONTINUE BELOW.**

Check Yes or No in the boxes below, as appropriate.

**Yes No**

7. [ ] [ ] Is inpatient hospitalization of the employee required?
8. [ ] [ ] Is employee able to perform work of any kind? (If "No", skip Item 9)
9. [ ] [ ] Is employee able to perform the functions of the employee's position? (Answer after reviewing statement from employer of essential functions of employee's position, or, if none provided, after discussing with employee.)

FOR CERTIFICATION RELATING TO CARE FOR THE EMPLOYEE'S SERIOUSLY-ILL FAMILY MEMBER, COMPLETE ITEMS 10 THRU 14 BELOW AS THEY APPLY TO THE FAMILY MEMBER AND PROCEED TO ITEM 15.

**Yes No**

10. [ ] [ ] Is inpatient hospitalization of the family member (patient) required?
11. [ ] [ ] Does (or will) the patient require assistance for basic medical, hygiene, nutritional needs, safety or transportation?
12. [ ] [ ] After reviewing the employee's signed statement (See Item 14 below), is the employee's presence necessary, or would it be beneficial for the care of the patient? (This may include psychological comfort.)
13. Estimate the period of time care is needed or the employee's presence would be beneficial:

**ITEM 14 IS TO BE COMPLETED BY THE EMPLOYEE NEEDING FAMILY LEAVE.**

14. When Family Leave is needed to care for a seriously-ill family member, the employee shall state the care he or she will provide and an estimate of the time period during which this care will be provided, including a schedule if leave is to be taken intermittently or on a reduced leave schedule:

Employee signature:

Date:

15. Signature of Physician or Practitioner:
16. Date:
17. Type of Practice (Field of Specialization, if any):
- Section 3(A), generally employers have a limit regarding how much sick leave can be used for family members.
  - Section 3(F), add "eligible" before "part-time employees"
  - Section 3(F)(1), add "eligible" before "part-time employees"
  - Section 3(J), delete "leading" from the first two sentences. Add the bulleted sentence to the first paragraph.
  - Section 4, replace this section with the following:

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,

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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.