

PERSONNEL POLICY

TOWN OF GRAY

Adopted: February 2, 2010

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Be it hereby resolved by the Gray Town Council of the Town, Maine:

Section 1 - Mission Statement

The Town of Gray (hereafter “Town”) recognizes that employment within its government shall be based on merit. As an Equal Opportunity Employer, the Town shall employ and promote employees without discrimination as to race, creed, age, sex, sexual orientation, disability, national origin or political affiliation; the best qualified persons who are available at the salary level established for the position, with first preference being given to citizens of the Town, all other factors being equal.

The Personnel Policy that follows is designed to promote and maintain equal employment conditions for all Town employees. Positions have been classified, where necessary, to clarify policies which apply strictly to employees with similar duties, authority, compensation or responsibilities. This policy is adaptive in nature and may be amended to meet the Town's future needs. This policy shall be applicable to all employees as defined within and is not a contract of employment.

Section 2 - Definitions

- 1) Appointing Authority: The Town Manager or the Town Council.
- 2) Employee: Denotes any person hired to a position by the Town Manager.
- 3) Regular, Full-Time: Employees who are not in a temporary, per-diem or probationary status and who are regularly scheduled to work the Town’s full-time schedule are, generally, eligible for the Town’s benefit package, subject to the terms, conditions and limitations of each benefit program. Reference Appendix for Employer / Employee Contributions.
- 4) Regular, Part-Time: Employees who are not assigned to a temporary, per-diem or probationary status and who are regularly scheduled to work less than a full-time schedule, but no less than 20 hours per week. These employees receive all legally mandated benefits and are eligible for the Town’s benefit package at full cost to the employee subject to the terms, conditions and limitations of each benefit program. Reference Appendix for Employer / Employee Contributions.
- 5) Probationary: Employees whose performance is being evaluated to determine whether further employment in a specific position or with the Town is appropriate. Employees who satisfactorily complete the probationary period will be notified of their new employment classifications.
- 6) Temporary: Employees who may or may not work a specified number of hours per week but who is employed on a short term basis at the discretion of the Town, usually for a specified term or project or are employed as part of seasonal operations, and whose employment will normally end at the conclusion of those seasonal operations during any given year.

Employment beyond any initially stated period does not; in any way imply a change in employment status. Temporary employees retain their status until they are legally notified of a change. A change to or from this category can be accomplished only with the written consent of the Town Manager. Although temporary employees receive legally mandated benefits they are ineligible for the Town's benefit package.

- 7) Per-diem: Employees who routinely work either a full-time or a part-time schedule and who accept additional compensation in lieu of participation in all but legally-mandated benefits. The Town offers this category in limited classifications and to a limited number of employees, such as Rescue EMTs. Service in this category cannot be credited in any way toward any benefit program, even if the employee is later assigned to a benefit-eligible classification. A change to or from this classification can be accomplished only with the written consent of the Town Manager.
- 8) FLSA: Fair Labor Standards Act.
- 9) Legally Mandated Benefits: Social Security and Workers Compensation Insurance.
- 10) Full-Time Schedule: For the purposes of determining benefits eligibility, a full-time schedule means a minimum of thirty-five (35) hours per week, based on a calendar year.
- 11) Good Standing: Employees who are not the subject of disciplinary action by the Town are considered in good standing.
- 12) Immediate Family: Includes parents, spouse/domestic partner, brother, sister, children (including step-children), grandparents, mother-in-law, father-in-law, sister-in-law, brother-in-law.

Section 3 - Administration

The Town Manager shall be the Administrator of the Personnel Policy. It shall be their duty to:

- a) Encourage and exercise leadership in the development of sound personnel practices among the departments of the Town;
- b) Advise the Gray Town Council regarding manpower needs and utilization;
- c) Foster and develop programs for the improvement of employee effectiveness including training, safety, health, counseling and courtesy when dealing with the public and respectfulness of municipal property;
- d) Establish and maintain records of all Town employees in the public service, setting forth as to each employee: classification, title, salary or status, sick time, vacation time and any other relevant data;
- e) Ensure that at least one bulletin board shall be set up within easy access to each employee for the purpose of required Department of Labor posters, advertising job position openings, public notices, departmental regulations, etc.;
- f) Apply and perform any act, which may be necessary or desirable to carry out the purposes and provisions of the Personnel Policy.

Section 4 - Employment

A. Applications

- 1) Original hires to positions in Groups I, II, III and IV shall be announced by posting notices in the Town Office, Post Office and such other places within the Town as may be deemed appropriate by the Town Manager, including at least one newspaper of general circulation. The Town Manager shall have final hiring authority on all municipal hires.
- 2) Applications shall be made on forms provided by the Town. Such forms shall require information covering training, experience and other pertinent information. All applicants must sign their application forms. Any misrepresentations, falsifications or material omissions may result in an applicant's exclusion, or, if the person has been hired, termination.
- 3) Preference may be given to qualified applicants who are residents of the Town.
- 4) Vacancies in positions above the entrance level shall be filled by promotion whenever, in the judgment of the Town Manager, it is in the best interests of the Town to do so. In the case of promotion, appropriate consideration shall be given to the applicant's qualifications, record of performance or seniority.
- 5) A person responsible for the hiring of new employees within a department may not hire a relative. A relative is a "person connected with another by blood or affinity".
- 6) The Town is an Equal Opportunity Employer and is committed to complying fully with the Americans with Disabilities Act (ADA).
- 7) The Town complies with the Immigration Reform and Control Act of 1986. Each new employee must complete Employment Eligibility Verification Form I-9 and present documentation establishing identity and employment eligibility the original to be kept on file with the Finance Department.
- 8) The Town regularly checks references of qualified job applicants.
- 9) Upon a conditional offer of employment from the Town, a prospective employee may be required to complete a medical examination, a psychological evaluation, a criminal background check, a physical test and/or drug and alcohol test.

B. Classifications

The Town Manager shall develop and recommend a classification plan for all positions in Groups I, II, III and IV. The classification plan shall consist of job descriptions specifying title, typical duties and responsibilities. The Town Manager shall assign the position a salary or wage range in accordance with the adopted pay schedule.

Before the classification plan, or any part thereof, shall become effective, it shall be approved, by order from the Gray Town Council.

The Town has established four (4) employment classifications.

- a) Group I: All full-time, salaried exempt employees.
- b) Group II: All full-time, hourly paid employees
- c) Group III: All regular part time employees.
- d) Group IV: All probationary, temporary, casual and per-diem employees. (This category **does not** include full-time hires in probationary status.)

C. Probation

The probationary period is intended to give a new employee the opportunity to demonstrate their ability to achieve a satisfactory level of performance and to determine whether the new position meets their expectations. The Town uses this period of time to evaluate an employee's capabilities, work habits, and over-all performance. Either the employee or the Town may end the employment relationship at will, during the probationary period, with or without cause or advance notice.

All new or rehired employees shall work on a probationary basis for the first six months from their date of hire or a time as established in writing by the Town Manager. Probationary basis shall be consistent with regulations as established by the FLSA. The Town Manager at their discretion may extend an employee's probationary status, but for no longer than an additional six (6) months.

During the initial probationary period, new employees are eligible for legally-mandated benefits. New employees shall not be eligible for health care or retirement benefits for the first thirty (30) days of employment. They shall not be eligible for other benefit programs in the Town benefit package until the probationary period is satisfactorily completed, unless specific benefit programs required early enrollment, or by written Town Manager approval.

Upon satisfactory completion of the initial probationary period, employees enter the established classifications.

An employee who is promoted or transferred within the Town may be required to complete a secondary probationary period with each reassignment to a new position. Any significant absence will automatically extend a probationary period by the length of the absence.

In cases of promotions or transfers within the Town, an employee who, in the sole judgment of management, is not successful in the new position can be removed from

that position at any time during the secondary probationary period. If this occurs, the employee may be allowed to return to their former position or to a comparable position for which the employee is qualified, depending on the availability of such positions and the Town's needs.

Employment status is not changed until the end of the secondary probationary period that results from a promotion or transfer within the Town .

D. Conduct

All employees of the Town are expected to follow rules of conduct that will protect the interest and safety of all employees and the Town. Situations or conduct which would reflect negatively or bring discredit upon the Town are also unacceptable. It is not possible to list all forms of behavior that are considered unacceptable in the workplace. The following are examples of infractions that may result in disciplinary action, up to and including termination of employment:

- a) Theft or inappropriate removal or possession of property;
- b) Falsification of time-keeping records;
- c) Working under the influence of alcohol or illegal drugs;
- d) Possession, distribution, sale, transfer or use of alcohol or illegal drugs in the workplace while on duty or while operating employer-owned vehicles and equipment;
- e) Fighting or threatening in the workplace;
- f) Boisterous or disruptive activity in the workplace;
- g) Negligence or improper conduct leading to damage of employer-owned or customer-owned property;
- h) Insubordination or other disrespectful conduct;
- i) Violation of safety or health rules;
- j) Smoking in prohibited areas;
- k) Sexual or other unlawful or unwelcome harassment;
- l) Possession of dangerous or unauthorized materials such as explosives/firearms in the workplace;
- m) Excessive absenteeism or any absence without notice;
- n) Unauthorized absence from the work station during the workday;
- o) Unauthorized use of Town owned equipment;
- p) Violation of the Personnel Policy;
- q) Unsatisfactory performance or conduct.

(This list is not intended to be exclusive.)

E. Dress

Employees are required to dress and groom themselves appropriately for their work environment. Employees may be sent home if their personal appearance is not proper for their work situation. Under these circumstances, employees will not be compensated for their time.

F. Electronic Communications Policy

See Appendix for current policy.

G. Smoking

Smoking is not allowed in any workplace. It is the policy of the Town to comply with all applicable federal, state, and local laws and regulations regarding no smoking in the workplace and in public places.

The Town maintains a smoke free and tobacco free environment for the employees and visitors to municipal facilities. There shall be no smoking or use of tobacco products in any municipal facility, property or land area (including any and all open air beaches and playing fields), vehicle, or piece of equipment. Employees and other visitors shall not smoke or use any tobacco products within 25 feet of any building entranceway to any such town property.

H. Drug Free Workplace Act

Under the Drug-Free Workplace Act, any employee who performs work for a government contract or grant must notify the Town of a criminal conviction for drug-related activity occurring in the workplace. Employees concerned with substance dependency and abuse issues are encouraged to discuss these matters with their supervisor or the Town Manager.

I. Drugs

No employee may use, possess, distribute, sell or be under the influence of drugs while on the job or representing the Town. Prescription drugs may be used only if they do not impair the employee's job performance. Violations will result in disciplinary action, which may include termination.

J. Alcohol

No employee may use, possess, distribute, sell or be under the influence of alcohol while on the job and or representing the Town. Violations will result in disciplinary action, which may include termination.

K. Personnel Files

The Town maintains a personnel file on each employee. Personnel files are confidential and are the property of the Town. Personnel files are to be kept locked and secured under the Town Manager's control. Title 26 M.R.S.A § 631 provides employees with access to their personnel records (including former employees and duly authorized representatives). However, a written request for such information must be submitted to the Town. File review and copying must take place at the location where the personnel files are maintained, during normal office hours unless, at the Town Managers

discretion, a more convenient time and location for the employee is arranged. Employees are entitled to one free copy of their personnel file per calendar year upon written request.

L. Evaluations/Reviews

Supervisors and employees are strongly encouraged to discuss job performance, goals and professionalism. Formal Written Performance Evaluations are to be completed every twelve months, on or about the anniversary of the date of hire. Employee evaluations shall be signed by the employee, Department Head and Town Manager. An employee may attach a written statement within ten (10) calendar days after any evaluation given to be included in their personnel file.

M. Outside Employment

A Town employee may engage in outside employment. However, no employees may engage in outside employment which in any manner interferes with the proper and effective performance of the duties of their position, results in a conflict of interest, or if it is reasonable to anticipate that such employment may subject the Town to public criticism or embarrassment. Employees must inform their Department Head who shall inform the Town Manager of their outside employment. If the Town Manager determines that such outside employment is disadvantageous to the Town, they shall notify the employee in writing that the outside employment must be terminated. Any employee who engages in employment outside their regular working hours shall be subject to perform their regular duties first.

N. Vital Information

In order to comply with federal and state regulations as well as for insurance and payroll purposes, employees must notify the Finance Director, in writing, of any of the following changes:

- a. Address and/or telephone number
- b. Change in marital status
- c. Change in dependent status
- d. Legal change in name or citizenship status
- e. Additional or relevant education or skills acquired since date of
- f. employment
- g. Person to be notified in case of emergency
- h. Change in military status or reserve requirements

O. Conflict of Interest

No employee of the Town shall have any financial interest in or profit from any contract, purchase, sale or work performed by the Town unless otherwise provided for by the Town Council. An actual or potential conflict of interest occurs when an employee is in a position to influence a decision that may result in a personal gain for that employee or immediate family as listed in the definitions portion of this Policy. Actual conflicts of interest, as well as incidents or situations which create the appearance of a conflict, must be avoided.

- 1) Purchasing - No Town employee who is authorized to make purchases shall have any interest, either directly or indirectly in any contract with the Town. No "presumption of guilt" is created by the mere existence of a relationship with outside firms. However, if employees have any influence or transactions involving purchases, contracts or leases, it is imperative that they disclose this, as soon as possible, to an officer of the Town, the existence of any actual or potential conflict of interest so that safeguards can be established to protect all parties.
- 2) Gratuities - Compensation paid to the employee in accordance with the Pay Schedule, and reasonable expenses as approved by the Town Manager, shall constitute the sole remuneration for services rendered by an employee in the discharge of Town duties. No additional reward, gift or other form of remuneration shall be accepted by any employee for the discharge of their Town duties. Acceptance of nominal gifts, such as food and refreshments in the ordinary course of business, or unsolicited advertising or promotional materials such as pens, note pads, calendars, etc., is permitted.

Personal gains may result not only in cases where an employee or relative has a significant ownership in a firm with which the Town does business, but also when an employee or relative receives any "kickbacks", bribes, substantial gifts or special consideration, as a result of any transaction or business dealings involving the Town.

P. Confidentiality

During the course of their duties, employees of the Town are often privy to information about individuals, which is sensitive and should be kept confidential. Examples include, but are not limited to, labor relations, General Assistance and personnel actions. Employees are expected to respect the confidential nature of such information. Violations will result in disciplinary action, which may include termination.

Section 5 – Hours of Work

The hours of work (starting times, quitting times, lunch times and overtime) will be established within each department subject to the Town Manager's approval.

The hours of work may be changed by mutual agreement of the Department Head and the department employees, subject to Town Manager's written approval.

A. Overtime

Any time actually worked in excess of 40 hours in one work week shall be compensated by overtime pay at a rate of time and one-half, with the exception of employees in Group I. For those employees in Group I, it is understood that compensation is based on the job responsibility; and the person filling the position will be expected to accomplish the work assigned to the position regardless of hours required. For the purposes of overtime calculation, holiday and vacation time will be considered time actually worked, with the exception of floating holidays. Public Works and Maintenance employees will be paid overtime for time worked after their normal daily scheduled hours.

In accordance with FLSA, temporary summer Recreation employees are exempt from overtime.

In accordance with FLSA, Public Safety Group IV employees are entitled to overtime if they work in excess of 212 hours in a consecutive twenty-eight (28) day period.

B. Absences

In the event of a necessary absence because of illness or any other cause, it is the responsibility of employees to notify their Department Head of the reason(s) for absence, but not later than thirty (30) minutes after their scheduled starting time. A written signed Absence request form must be submitted to the Finance Department within three working days for Payroll purposes if utilizing eligible time. Poor attendance and excessive tardiness may lead to disciplinary action and possible termination.

C. Call-In

Except as otherwise provided by law, any employee in Group II who is subject to being called in to work during their normal off-duty hours shall be paid a minimum of three (3) hours pay for each such call-in. Should they be required to work less than two (2) of the three (3) hours, three (3) hours will be the maximum paid in lieu of overtime compensation. Should they be required to work more than two (2) of the three (3) hours, overtime pay will be calculated on actual time worked.

D. Emergencies

Emergencies such as severe weather, fire or power failures, which force closure of all or some of the Town's facilities will be announced on local radio and television stations. Employees who are willing and able to work will be paid during official closures. Emergency and essential staff may be asked to work during official closures and will receive regular pay.

Section 6 – Compensation

A. Pay Schedule

The Town Manager shall prepare a pay schedule for all of the positions in the Town. The pay schedule shall reflect fairly the difference in duties and responsibilities and shall be related to compensation for comparable positions in other public and private employment.

The Town Manager shall submit the pay schedule to the Gray Town Council in the form of a resolution. The Council may adopt the pay schedule with or without amendment. Thereafter, no position shall be assigned a salary higher than the maximum provided for the position unless the pay schedule is amended in the same manner as herein provided for its adoption.

Any pay schedule amendments of position or re-assignment requests shall be brought to the attention of the Town Manager by the Department Heads. Changes will be made by the Town Manager in writing and will be based on employee merit.

B. Pay Dates

All employees are paid bi-weekly. If payday falls on a regularly scheduled holiday, employees will receive pay on the last day of work before the regularly scheduled payday. To receive pay before a scheduled vacation or to have pay direct-deposited to bank accounts, employees must submit a written request to the Finance Department.

Any questions concerning payroll deductions may be addressed to the Finance Department.

C. Positions Changes

When an individual position is changed by reorganization, creation of a new position, or a change in duties and responsibilities, revisions of the pay schedule or possible job classification changes are necessary and the Town Manager shall recommend the necessary revisions to the Town Council for their approval.

When a regular employee is out for an extended period of time due to illness or injury, the Department Head must review the vacancy to determine if the operations can continue without the position being filled temporarily. The written analysis must include the cost benefits of using existing personnel, including any overtime incurred, versus the promotion or hiring to fill the vacancy. If it is determined that the position must be filled during this period the following shall apply:

- 1) Promotions: In those cases where a regular part-time employee is temporarily promoted to fill the full-time vacancy, the person promoted shall be entitled to receive, all benefits provided to that position as indicated in the positions job classification. The time served in the temporary position shall count towards their second probationary period (as referenced under Section 4-C). Should the individual be returned to their regular part-time status, they shall be entitled to receive all benefits provided to that position as indicated in the positions job classification.
- 2) Hire: If a new person is hired temporarily to fill the full-time vacancy they shall only be entitled to the legally mandated benefits and holiday pay. If they are hired to the position as a full-time employee, then the time worked shall count towards their initial probationary period.

D. Cost of Living Adjustment (COLA) / Merit Raises

Any salary or wage adjustment based on COLA will commence on July 1, of each respective year.

Merit raises will be based on an employee's annual performance evaluation. Merit raises will be awarded as determined in writing by the Town Manager.

E. Fire / Rescue Per-Call Stipend

Fire and Rescue per-call "time" is not included in actual time calculations and is not included in overtime calculations.

F. Travel Expenses

Employees required to drive personal vehicles for approved, legitimate municipal purposes shall be reimbursed by the Town at the current federal mileage rate. Other reasonable expenses will also be reimbursed; however, requests for reimbursement must be approved by the employee's Department Head or the Town Manager, and must be accompanied by receipts.

- a) Authorization for personal car use by employees for routine Town business will be at the discretion of the Town Manager. All employees must show proof of insurance and a valid driver's license.
- b) Authorization for personal car use by employees for a specific purpose and approved, in writing, in advance by the Town Manager.
- c) All out-of-town travel expenses for employees must be authorized by the Town Manager, in writing, in advance of the use for which reimbursement is sought.
- d) Reimbursement for authorized personal car use shall be at a rate as determined by the Town Council.
- e) When two or more persons travel together on official authorized trips, costs shall be paid to one employee based on the total mileage involved.

G. Outside Compensation

Any employees receiving payment for services, from non-Town sources, rendered during their normal work day and for which work day Town compensation was given, shall turn the entire amount of that compensation over to the Town Treasurer. This provision does not apply to activities outside the workday or during periods of vacation.

Section 7 - Benefits

A. Social Security

The Town participates, jointly, with employees in Social Security payments. This is a federally mandated benefit and is dependent on current Federal Government standard reimbursements.

B. Health and Major Medical Insurance

Employees in Groups I, II and III are eligible to participate in a Town-paid group health insurance plan, which includes hospitalization and Major Medical. The Town will pay toward coverage for employees in Groups I, II and III as determined annually by approved Municipal Budget. When employment ceases, the Town will terminate payment of this benefit and COBRA shall be offered as mandated by federal law, to be administered by the insurance company. All new employees shall not be eligible for health care benefits until the first day of the month following their first thirty (30) days of employment.

C. Life Insurance

Employees in Groups I, II and III may be eligible for Life Insurance at a rate of 1 times their annual salary. The Town will pay toward coverage for employees in Groups I, II and III as determined by the Town Council (according to the most updated Appendix).

D. Town Offered Optional Benefits

Employees in Groups I, II and III may be eligible for other optional benefits at full cost to the employee. A list of Town offered optional benefits is available in the Appendix.

E. Retirement

Employees in Groups I, II, and III are eligible to participate in the Town-established retirement plan. For Groups I and II, the Town will match up to an amount as determined by the Town Council (according to the most updated Appendix), should an employee elect to participate. All new employees shall not be eligible for retirement benefits for the first sixty (60) days of employment

F. Sick Time

The Town has established a sick time benefit to ensure that employees have a financial resource during periods of illness. The Town does not view sick time as additional vacation or personal time to be utilized at the will of the employee. Sick time shall only be used during periods of actual illness or at the written discretion of the Town Manager. Sick time may be utilized to care for an employee's immediate family as listed in the definitions portion of this Policy.

Employees in Groups I & II shall be entitled to one (1) day of sick time for each month while employed by the Town. For accrual purposes, one (1) sick day shall equal eight (8) work hours. They shall accrue 3.692 hours per bi-weekly pay period.

Employees in Group III shall be entitled to one (1) day of sick time per one hundred seventy-three (173) hours worked while employed by the Town, which will be accrued on a bi-weekly basis with a percentage method (please see example below).

- a. Regular part-time employee hours for one bi-weekly pay period = 43
43 divided by 173 hours = .24856
- b. 8 hours sick time eligibility multiplied by .24856 = 1.99 hours sick accrued

The employee has the responsibility to inform their Department Head concerning utilization of sick time. If the Department Head is not available then the employee shall inform the Town Office.

The Town Manager, at their discretion, may require a physician's certificate or note, as a condition of an employee's utilization of sick time. Employees, who utilize three or more days of sick time consecutively, may be required to furnish a physicians note, certifying the employee's condition. Persons drawing workers' compensation will not accrue sick time.

All unauthorized use of sick time shall be considered as an unauthorized absence from work and as unpaid time. Unauthorized use of sick time shall be considered an action subject to discipline.

Each employee in Groups I & II, upon separation from employment in good standing, shall also be entitled to pay equal to one-half of that employee's accumulated sick time, not to exceed forty-five (45) days; provided that the employee has worked for the Town for a period of at least five years. An employee who is not in good standing upon separation from employment is not entitled to pay for accumulated sick time.

G. Personal Time

Any employee in Groups I or II who has a balance of two hundred forty (240) hours of sick time on their anniversary date shall be eligible for eight (8) hours of personal time. Any employee in Groups I or II who has a balance of four hundred eighty (480) hours of sick time on their anniversary date shall be eligible for sixteen (16) hours of personal time. Any employee in Groups I or II who has a balance of seven hundred twenty hours (720) of sick time on their anniversary date shall be eligible for twenty-four (24) hours of personal time. Any employee in Groups I or II who has a balance of nine hundred sixty (960) hours of sick time on their anniversary date shall be eligible for thirty-two (32) hours of personal time. Personal days must be used in the year they accrue; they are not carried over from year to year and will not be paid out to the employee upon termination.

H. Vacation Time

Employees in Groups I & II shall be entitled to two (2) weeks (80 hours) of vacation time each year. Employees with five years of service shall be entitled to three (3) weeks (120 hours) of vacation time each year. Employees with ten (10) years of service shall be entitled to four (4) weeks (160 hours) of paid vacation time each year. For accrual purposes, one (1) vacation day shall equal eight (8) work hours. Vacation time shall be accrued to each eligible employee during each pay period at the following rates:

- a. Under five years of service-3.08 hours;
- b. Five-ten years of service-4.62 hours;
- c. Ten years of service and after-6.16 hours.

Employees in Group III shall be entitled to one (1) day of vacation time per one hundred seventy-three (173) hours worked while employed by the Town, which will be accrued on a bi-weekly basis with a percentage method (please see example below).

- a. Regular part-time employee hours for one bi-weekly pay period = 43
- b. 43 hours divided by 173 hours = .24856
- c. 8 hours vacation time eligibility multiplied by .24856 = 1.99 hours vacation accrued

Vacation time is not intended to be cumulative; all such time must be taken in the year earned. Exceptions may be made at the written discretion of the Town Manager.

Vacation time shall be arranged by each Department Head in such a manner as to cause a minimum loss of service to the public and subject to approval by the Town Manager. All Department Heads' time shall be approved by the Town Manager.

Exceptions may be made at the discretion of the Town Manager; provided however, with respect to the Town Manager's own annual time, they must, each year, advise the Town Council of the status of their annual time and, if applicable, request written permission from the Town Council to carry the same forward to the next year. Copies of the Town Manager's status report on their own annual time and the Town Councils written response shall be placed in the Town Manager's personnel file. Town employees and the Town Manager must take extended time within 180 days of the year earned.

I. Discretionary Time

Additional time off with pay may be granted in writing to any employee by the Town Manager at their discretion. Such time must be used within one (1) calendar year and is not payable to the employee upon separation from employment in good standing.

J. Bereavement Time

Special time with pay shall be granted to employees in Groups I, II & III for up to three (3) days for absence caused by the death of a member of the immediate family, as listed in the definitions portion of this Policy.

K. Leave of Absence

Other than FMLA, a leave of absence without compensation shall not exceed a length as determined in writing by the Town Manager and shall be based on the employee's past work performance.

A person on a leave of absence without pay shall not be entitled to holiday, sick or vacation pay. The Town Manager may permit holiday, sick and vacation pay on notice if extenuating circumstances exist and the leave of absence is less than thirty (30) days.

L. Military Service Leave

Employees in Groups I & II who are members of the organized military reserves and who are required to perform field service will be granted Military Service Leave in addition to the vacation leave, but not to exceed two (2) weeks in any calendar year.

For any such periods of Military Service Leave, excluding weekend duty, the Town will pay the employee the balance between base pay and the employee's regular daily compensation; the total equaling their regular pay. The employee shall furnish the Finance Department with an official statement from military authorities indicating their rank, pay and allowances.

M. Holidays

Paid holidays for employees in Groups I & II and III shall be as follows:

New Year's Day	Veterans Day
Martin Luther King Jr. Day	Thanksgiving Day
Presidents' Day	The day after Thanksgiving
Patriots Day	Half Day before Christmas
Memorial Day	Christmas Day
Fourth of July	
Labor Day	
Columbus Day	

Employees in Groups I, II & III shall be compensated for their normal regularly scheduled working hours on the date of the holiday or its observance date (as described below (a)). If a holiday falls on a date that is not a normal regularly scheduled working day for any employee in Groups I & II, the holiday shall be accrued as floating holiday time to be used within 6 months following the date of the accrual. Floating holiday time is not intended to be cumulative and is not included in overtime calculations. If a holiday falls on a date that is not a normal regularly scheduled working day for any employee in Group III, the holiday shall not be compensated.

- a. When a holiday falls on a Sunday, the following Monday shall be observed for all employees who are not regularly scheduled for Sunday. When a holiday falls on a Saturday, the preceding Friday shall be observed for all employees who are not regularly scheduled for Saturday.
- b. Because of the nature of the position, certain employees in Groups II & III may be required to work during a holiday. Should this occur, hourly paid employees will be paid time and a half for the hours worked on the holiday for all holidays except Thanksgiving and Christmas, for which they will be paid holiday pay plus two times their hourly rate for hours worked on the holidays.
- c. Due to tradition there is one exception to the holiday schedule. The Transfer Station will be closed on Easter Sunday and open on Patriots Day without holiday compensation being paid for hours worked on Patriots Day.

N. Jury Duty

A Town employee called for jury duty will receive his or her regular pay check. They are required to forward any payments received for their jury duty service to the Finance Department with the exception of mileage reimbursement. This procedure will compensate employees for any difference in pay. Employees excused from jury duty must report back to work if it is during their normal working hours.

O. Family Medical Leave Act

See Appendix for details.

Section 8 – Resignations

An employee may resign from Town service in “good standing”. “Good standing” shall mean the submittal of a written notice fourteen (14) working days in advance of the last day of actual work. Failure of a written resigning employee to comply with this rule may be cause for denying future employment with the Town. The Town Manager may permit a shorter period of notice if extenuating circumstances exist.

Section 9- Disciplinary Procedures

A. Just Cause

The Town shall base disciplinary actions or measure on a "just cause" basis.

B. Disciplinary Actions

The appointing authority shall have the right to impose disciplinary action, on any employee whose work performance or conduct, in the judgment of the appointing authority, justifies such action.

The steps of disciplinary action are as follows:

- 1) First written warning
- 2) Second written warning
- 3) Suspension (as defined below in C.)
- 4) Termination

All warnings must clearly identify each issue of discipline, as well as the appropriate corrective measures to be taken by the employee (including their time frame for completion) in order for the appointing authority to consider each issue as resolved.

There are certain types of employee problems that are serious enough to justify immediate suspension or termination. Notice of such action against an employee must be in writing and filed with the employee not later than the effective date of action. Such notice shall specify the penalty and contain a statement of the reason or reasons therefore. The employee shall have the right of appeal, as outlined in the grievance procedure.

C. Suspension

As step 4 (four) in the disciplinary action process, suspension of any employee’s employment may be done in writing at the discretion of the appointing authority, with special consideration to the following written conditions:

- 1) Suspension with or without pay;
- 2) Specific time frame;
- 3) Conditions for reinstatement.

D. Discharged Without Just Cause

If it is determined that an employee has been discharged without just cause, he or she shall be reinstated to his or her former position with full pay for all time lost. In the event that a Department Head wants to discharge an employee, the action shall first be approved by the Town Manager.

E. Employee Termination

Employment may be terminated for the following reasons:

- 1) Resignation -voluntary employment termination initiated by an employee;
- 2) Discharge -involuntary employment termination initiated by the Town;
- 3) Layoff -involuntary employment termination initiated by the Town for non-disciplinary reasons or
- 4) Retirement -voluntary employment termination initiated by the employee meeting age, length of service and any other criteria for retirement from the Town.

At the time of termination an exit interview may be scheduled. Employees will receive final pay in accordance with State law at the next regularly scheduled pay date.

Town Property Employees must return all property belonging to the Town at the time of their termination or upon immediate request.

Section 10 – Grievance Procedure

Grievances are limited to written disputes, claims or complaints of those issues which are related to aspects of the employer-employee relationship between the employee and the Town. The grievance in writing must include the following:

- A clear and concise statement of the facts giving rise to the grievance, including date, time and place of the alleged incident, if any, relating to the grievance, and characterizing each particular act or omission;
- A copy of any documents relating to the grievance (if any); and
- A statement setting forth the remedy sought.

To resolve the grievance the following course of action should be taken consecutively:

- 1) The grievance shall be filed in writing with the Department Head within five (5) working days of the alleged incident, particular act or omission. The Department Head shall issue a written decision within five (5) working days from the date received.
 - a. If the grievance arises from an alleged incident, particular act or omission on the part of the Department Head, the grievance shall be filed with the Town Manager within five (5) working days of the alleged incident, particular act or omission.

- 2) The individual may appeal the decision of the Department Head to the Town Manager within five (5) work days of the date of receipt of the Department Head's decision. The Town Manager shall issue a written decision within five (5) working days from the date the appeal is received. The Town Manager's decision shall be final.
 - b. If the grievance arises from an alleged incident, particular act or omission on the part of the Town Manager, other than a decision of the Town Manager on appeal of a grievance or disciplinary action, the grievance shall be filed with the Town Council within ten (10) working days of the alleged incident, particular act or omission. The Town Council will hold a hearing, within fifteen (15) working days, in regard to said grievance and issue a decision. The decision of the Town Council shall be final.

Section 11 –Harassment

It is the policy of the Town that all our employees should be able to work in an environment free from all forms of harassment. Harassment, as defined by this policy, is prohibited. All employees must avoid offensive and inappropriate or harassing behavior at work and are responsible for assuring that the workplace is free from hostile behavior at all times.

This policy refers not only to supervisor-subordinate actions but also actions between co-workers. Any complaints of harassment will be investigated promptly. There will be no intimidation, discrimination or retaliation against any employee who makes a report of harassment.

A. Sexual Harassment

Sexual harassment is the attempt to control, influence or affect the career, salary, or job of an individual in exchange for sexual favors. Sexual harassment can also be conducted which creates a hostile or offensive work environment or unreasonably interferes with a person's ability to perform their job. Sexual harassment is an extremely serious matter. It is prohibited in the workplace by a person and in any form.

- 1) Specific conduct which is prohibited includes, but is not limited to:
 - a) Threats or insinuations, implicit, that any employee's refusal to submit to sexual advances will adversely affect the employee's retention, evaluation, wages, promotion, duties or any other condition of employment;
 - b) Unwelcome sexual flirtations, advances, or propositions;
 - c) Verbal or written abuse of a sexual nature;
 - d) Graphic verbal comments about an individual's body;
 - e) Sexually degrading words used to describe an individual, or
 - f) The display in the workplace of sexually suggestive objects, comments or pictures.

Any Department Head or employee who is found after appropriate investigation to have engaged in sexual harassment will be subject to discipline, up to and including discharge.

B. Harassment

Derogatory or vulgar comments or actions regarding a person's sex, sexual orientation, religion, age, ethnic origins, race, physical appearance, or the distribution of written or graphic materials having such an effect, are prohibited. Any employee who believes he/she has been the subject of such harassment should report the alleged conduct to their Department Head or the Town Manager. Any Department Head or employee who is found, after appropriate investigation, to have engaged in any harassment will be subject to discipline, including discharge.

C. Reporting a Complaint

Any employee who believes he/she has been the subject of harassment should report all alleged acts to their Department Head or the Town Manager. If the complaint involves an employee's direct supervisor or if the employee feels uncomfortable with reporting the matter to their direct supervisor, the complaint should be brought to the attention of the Town Manager. If the complaint concerns the town Manager then the employee should bring the matter to the attention of the Town Council Chairperson.

D. State Law

Effective October 19, 1991, the Maine Legislature passed a new law regarding Sexual Harassment in the Workplace. In compliance with this law, the Town is also required to provide annual written notification to all employees regarding sexual harassment. The Town is also required to provide training to all new employees on sexual harassment before their first anniversary of employment. In addition, new supervisors must receive information on their responsibility to take immediate and corrective action in addressing sexual harassment complaints.

Section 12 – Political and Outside Activities

Except as otherwise provided by law, no person who is an employee of the Town shall be eligible to hold any elective office in the Town government. No Town employee shall orally, by letter, or in any other manner, solicit or assist in soliciting any assessment, subscriptions or contributions for candidate for elective office in the Town government. This shall not prevent Town employees from becoming, or continuing to be, members of any political organization, from attending political functions, running for any Town, State or Federal elected position, or from voting with complete freedom in any election. The Town Manager shall endeavor to keep all municipal properties free of political or campaign literature and materials.

Section 13 – Safety

The Town requires all employees to complete mandatory safety training that complies with Federal (OSHA), State and local requirements. Each Department Head is required to ensure the proper training for each of their employees. Written proof, signed by the employee and Department Head/Certified Training Authority or a valid Certificate of course completion, shall be required for all training, and will be added to each employee's Personnel File. Employees are expected to abide by all safety rules and regulations, which shall be posted on bulletin boards, announced at staff meetings or otherwise communicated by the Town. An employee's failure to comply may result in disciplinary action and/or termination.

A. Workers Compensation

The Town participates in a federally mandated Workers Compensations Program. The following actions are required by all employees:

- 1) All accidents to personnel, no matter how minor, during the work schedule must be reported immediately to the Department Head or the Town Manager. The Town requires the first injury report to be filed with Workers Compensation within three (3) days of incident. A copy of the report will be forwarded to the Finance Department so it can added to the employees confidential personnel file.
- 2) All employees suffering an on-the-job accident will be sent to the Town-specified doctor for examination at the Town's expense.
- 3) The employee, if eligible, will be entitled to utilize sick, vacation or personal time respectively for any regularly-scheduled time missed between the incident and the date that Workers Compensation benefits may begin.

B. Infectious Disease

See Appendix for the Infectious Disease Policy.

Section 14 – Severability

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

APPENDIX A - FAMILY MEDICAL LEAVE ACT

The **Family & Medical Leave Act** (29 U.S.C. § 2601 et seq.) is a federal law guaranteeing unpaid time off for employees to deal with family and personal matters. In 2008, the FMLA was amended, through the National Defense Authorization Act of 2008 (PL 110-181), to provide new leave entitlements related to military service. In addition, comprehensive new regulations promulgated by the U.S. Department of Labor (DOL) in November, 2008 have clarified and revised some FMLA requirements, effective January 16, 2009.

“Traditional” Non-Military FMLA Leave. The law requires covered employers to grant up to **12 workweeks** of unpaid leave in a 12-month period to eligible employees for the following reasons:

- 1) the birth and care of the employee’s newborn child;
- 2) placement of a child with the employee for adoption or foster care;
- 3) to care for the employee’s spouse, son, daughter or parent, (but not parent-in-law) with a serious health condition; or
- 4) for the employee’s own serious health condition that makes him/her unable to perform the functions of his/her position.

“Serious health condition” is defined in detail in DOL regulations. See 2008 regulations [29 C.F.R. §§ 825.113; 825.115](#). *“Son or daughter”* means a biological, adopted, or foster child, stepchild, legal ward or in a loco parentis relationship who is either under age 18, or over 18 and incapable of self care due to a physical or mental disability. See 2008 regulation [29 C.F.R. § 825.122](#) for more details.

Military FMLA Leave. Two new leave entitlements were provided in 2008 to deal with military family leave issues.

(1) **Military Caregiver Leave.** Eligible employees may take up to **26 workweeks** of unpaid leave within a 12-month period for the purpose of caring for a “covered servicemember.” The employee must meet the basic FMLA eligibility requirements discussed below and must also be the spouse, son, daughter, parent or “next of kin” of a covered servicemember.

- *“Next of kin,”* for the purposes of Military Caregiver leave, is the nearest blood relative of that individual other than the servicemember’s spouse, parent, son or daughter according to list of priorities in the regulations at [29 C.F.R. § 825.127](#).
- *“Covered servicemember”* means a current member of the Armed Forces, including the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. The term *“serious injury or illness”* is defined (**only** for the purpose of deciding who is a “covered servicemember”), as an injury or illness incurred by the member in the line of duty on active duty in the Armed Forces that may render the member medically unfit to perform his/her military duties. See 2008 regulation [29 C.F.R. § 825.127](#).
- Unlike other FMLA leaves, Military Caregiver leave starts on the first day leave is taken and ends 12 calendar months from that date, regardless of the usual method the employer uses to calculate the 12 month period for other FMLA leaves. See discussion below.
- An employee is limited to a combined total of 26 workweeks of FMLA leave in one 12-month period, which includes all FMLA leave taken for any reason.

- An employee may take additional 26-week Military Caregiver leaves for a different service member or to care for the same servicemember with a subsequent injury or illness, provided that no more than 26 weeks of leave may be taken in one 12-month period.
- The Military Caregiver Leave entitlement became effective immediately upon passage on January 28, 2008.

(2) **Qualified Exigency Leave.** Eligible employees may take up to **12 workweeks** of unpaid FMLA leave in a 12-month period because of a “qualifying exigency” arising out of the fact that the employee’s spouse, son, daughter or parent is a “covered military member” who is on active duty, or call to active duty status, in support of a contingency operation.

• A “*qualified exigency*” is defined in the regulations to include a number of broad categories for which leave may be used. These include:

- o Short-notice deployment (used up to 7 days from notification date);
- o Military events and related activities;
- o Childcare and school activities;
- o Financial and legal arrangements;
- o Counseling (other than with a medical provider);
- o Rest and recuperation leave of up to 5 days;
- o Post-deployment activities (may be used up to 90 days from termination of active duty status); and
- o Additional activities not part of the categories listed above, but agreed to by employer and employee.

Additional detail and examples of each of the types of qualifying exigency are provided in the 2008 regulations at [29 C.F.R. § 825.126](#) and in the U.S. DOL [Fact Sheet on Military FMLA Leave](#).

• “*Covered military member*” as used for Exigency Leave is *not* the same as the term “covered servicemember” as used for Military Caregiver Leave. A “covered military member” includes members of the National Guard, the Reserve, or certain retired members of the Regular Armed Forces or retired Reserve. The Exigency Leave entitlement was **not** extended to family members of members of the Regular Armed Forces. In addition, the call to duty must be a federal call to active duty. State calls to active duty are not covered unless under certain orders of the United States President as listed in the regulations. See 2008 regulation [29 C.F.R. § 825.126\(b\)](#) for more detail.

• An employer may request copies of the military member’s orders or other documentation from the military, and may request that the employee provide certification of the exigency. The DOL has created a form ([Form WH-384](#)) that employers may use for this purpose. Also see 2008 regulation [29 C.F.R. § 825.309](#) for more information.

Employee Eligibility:

In order to be eligible for any type of FMLA leave, an employee must work for a covered employer and meet the following criteria:

- The employee must have worked for the employer for at least 12 months (in total, and not consecutively). According to the 2008 FMLA regulations, employers do not need to count breaks in service of more than 7 years. Several exceptions to the 7 year limit are listed in 2008 regulation [29 C.F.R. § 825.110\(b\)](#);
- The employee must have worked at least 1,250 hours over the 12-month period immediately preceding commencement of the leave;
- The employee must work at a job site at which there are at least 50 employees or at least 50 employees must work within 75 miles of the work site.

All “public agencies” are covered employers under the federal FMLA. 29 C.F.R. § 825.108. This includes federal and state governments, municipalities, or government agencies. *Id.* However, even though a municipality is a “covered employer” under the FMLA, it may not be required to provide FMLA leave to its employees because the municipality may have no “eligible” employees. As noted above, in order to be eligible for FMLA leave, an employee must work at a worksite where there are at least 50 employees, or at least 50 employees must work within 75 miles of the employee’s worksite. Thus, in practice, a municipality must have at least 50 employees (within a 75 mile area) before it will be required to grant leave under the federal FMLA. See 2008 regulation, [29 C.F.R. § 825.108\(d\)](#).

Determining number of employees employed: Before deciding if the 50-employee threshold has been met, one must determine which entity is the “public agency” or municipal employer. Generally, a municipality is considered a single employer for purposes of determining employee eligibility. See, [29 C.F.R. § 825.108\(c\)](#). Often questions arise as to whether the “municipality” includes school, sewer, water or other municipal functions, or whether these are separate employers for purposes of the FMLA. DOL regulations indicate that this determination should be made on a case by case basis and that the U.S. Bureau of Census, *Census of Governments* may be used as one guiding factor on this issue. See [29 C.F.R. § 825.108\(c\)](#) and www.census.gov/govs. Once the bounds of the municipal employer are determined, one must then determine how many “employees” that employer employs. The FMLA uses the same definition of “employee” used in the Fair Labor Standards Act. ([29 U.S.C. § 203](#)). Because there are numerous exceptions and qualifications applicable to the determination of the municipal employer and number of employees, municipalities are strongly encouraged to seek legal advice in determining if the 50-employee threshold has been met.

Counting the 12-month leave period:

The law requires employers to provide 12 workweeks of leave within a “12-month period” for all types of FMLA leave except Military Caregiver leave. Employers may choose among 4 methods to calculate the 12-month leave period provided the method chosen is applied consistently and uniformly to all employees. See [29 C.F.R. § 825.200](#). These are:

- (1) a calendar year;
- (2) any fixed 12-month year, such as a fiscal year, or a year beginning on the employee’s anniversary date;
- (3) a 12-month period measured forward from the date any employee’s first FMLA leave begins; or
- (4) a rolling 12-month period measured backward from the date an employee uses FMLA leave.

Municipal employers that have eligible employees (i.e., over 50 employees within a 75-mile radius) are encouraged to adopt a policy that notifies employees of the method the employer has chosen to measure the 12-month period. If the employer does not designate a method of calculating the leave year in advance, the employer must allow employees to use whatever counting method that would be most beneficial to the employee. [29 C.F.R. § 825.200](#). When implementing (or changing) a method of calculating the leave year, the employer must give at least 60 days notice to all employees, and the transition must take place in such a way that the employees retain the full benefit of 12 weeks of leave under whichever method affords the greatest benefit to the employee. *Id.*

Certification:

Employers may require that employees provide certification of the need for leave under the Military Exigency leave entitlement. The DOL has issued a form that may be used to certify this exigency. See [Certification of Qualifying Exigency for Military Family Leave \(Form WH-384\)](#).

Employers may require medical certification of the need for leave when leave is requested to care for the employee's family member, a covered servicemember or for the employee's own serious health condition. Generally, the employee must be allowed at least 15 days to obtain the certification. The DOL has published three new forms that may be used to obtain medical certification Individual forms were created to certify:

- (1) the employee's own serious health condition (Form [WH-380-E](#));
- (2) a family member's serious health condition (Form [WH-380-F](#));
- (3) and a covered service member's serious injury or illness (Form [WH-385](#)).

Second or third medical opinions are potentially available at employer expense. See the DOL's [Compliance Guide](#) for more information concerning medical certification and 2008 regulations at [29 C.F.R. § 825.305 – 825.313](#).

Recertification of the need for leave may be required generally no more often than every 30 days and only in connection with an absence. Additional guidelines and restrictions, including those relating to recertification of intermittent leave, are outlined in the regulations at [29 C.F.R. § 825.308](#) and [825.305](#).

Fitness for Duty. Pursuant to a uniformly applied policy, an employer may ask for medical certification of fitness to return to work upon completion of approved leave for the employee's own serious health condition. Any such inquiries must be consistently applied, and must be sought only in regard to the particular health condition that caused the need for leave. Under the 2008 FMLA regulations, an employer may require that the certification address the employee's ability to perform the essential functions of the job, *if* the employer provided a list of these essential functions no later than the time it provided the [Designation Notice \(Form WH-382\)](#) to the employee. In addition, the Designation Notice must have indicated that the Fitness for Duty Certification would be required to address these functions. No second or third opinions on a Fitness for Duty certification are allowed, although an employer may ask for clarification of the certification within specific limits in the regulations. See 2008 regulation, [29 C.F.R. § 825.312](#).

For more information concerning certification requirements, see 2008 regulations at [29 C.F.R. §§ 825.305 – 825.313](#).

Intermittent Leave:

If medically necessary, intermittent leave or a reduced work schedule must be allowed under the federal FMLA to care for a child, parent, or spouse or for the employee's own serious health condition. Intermittent leave may also be used to care for a covered servicemember with a serious injury or illness. In addition, only the amount of leave actually used while on an intermittent/reduced leave schedule may be charged against the employee's leave entitlement. Employers may not require an employee to use more time than necessary and must account for the intermittent leave, using the smallest time segments available in their timekeeping system (which must be an hour or less). Intermittent leave for the birth or placement of a child is only available with consent of the employer. See [29 C.F.R. § 825.202 - 825.205](#).

Employer Notice Requirements:

- o All covered employers must post the DOL's **FMLA Poster/General Notice** ([Form WH-1420](#)) in a conspicuous location even if the employer has no eligible employees. (Note: the DOL has issued a new poster in conjunction with its 2008 regulations).
- o Employers with any eligible employees *must* provide the same information contained in the FMLA Poster/General Notice in any handbooks and/or any written policy materials. If the employer does not maintain policy manuals or written policy materials, the employer must provide general information on FMLA rights to new employees at the time of hire. Electronic distribution of the notice is allowed, if certain conditions are met. See new regulation [29 C.F.R. § 825.300](#).
- o Within five business days after a leave request is received, or the employer has been made aware of the employee's need for leave, the employer must give the employee a notice concerning his/her basic eligibility for leave (e.g. whether the employee has worked for the employer for 12 months, 1,250 hours and/or whether the 50 employee threshold has been met). At the same time, the employer must also furnish a notice outlining the employee's rights and responsibilities relating to FMLA leave. The notice must indicate any requirement to provide certification of the need for leave, whether military or non-military. Specific information which must be included in the notices includes: requirements relating to substitution of paid leave, key employee status, requirements for periodic reports, benefit premium payments, and several other items listed in new regulations at [29 C.F.R. § 825.300\(b\)](#). The notice of eligibility may be verbal or in writing. The DOL has created a sample form entitled,

Notice of Eligibility & Rights and Responsibilities ([Form WH-381](#)) which satisfies this employer obligation.

- Within five business days after the employer gains enough information to make a determination as to whether the requested leave qualifies as FMLA leave (e.g. medical certification has been received), the employer must provide a "**Designation Notice**" to the employee. The Designation Notice notifies the employee whether the leave will be designated as FMLA leave and counted against the employee's leave entitlement. If the employer plans to require a fitness for duty certification upon return to work, and/or if the employer will require that the certification address the essential functions of the employee's job, these requirements must be included in the Designation Notice, along with a list of those essential functions. A sample **Designation Notice** ([Form WH-382](#)) has been prepared by the DOL. See 2008 regulations, [29 C.F.R. § 825.301](#) for more details on Designation Notice requirements.
- The employer must notify the employee of the amount of leave counted against the employee's FMLA leave entitlement. If the amount of leave is known at the time the employer designates the leave as FMLA-qualifying, the employer must notify the employee of the number of hours, days, or weeks that will be counted against the employee's FMLA leave entitlement in the Designation Notice. If it is not possible to provide the information with the Designation Notice, the employer must provide notice of the amount of leave counted against the employee's FMLA leave entitlement upon the request by the employee, but no more often than once in a 30-day period and only if leave was taken in that period. The notice may be oral or in writing, but if oral notice is given, it must be confirmed in writing no later than the following payday. The written notice

may be in any form, including a notation on the employee's pay stub. See 2008 regulation 29 C.F.R. § 825.300(d)(6).

Employee Notice Obligations:

Generally, employees must provide at least 30 days notice of the need for leave that is foreseeable. See [29 C.F.R. § 825.302](#) for more detail. For unforeseeable leave, an employee or his/her spokesperson must provide notice to the employer as soon as practicable under the facts and circumstances of the particular case. The regulations provide that it generally should be practicable for the employee to provide notice of unforeseeable leave within the time prescribed by the employer's usual and customary notice requirements. See [29 C.F.R. § 825.303](#) for more detail.

Preservation of benefits:

During an approved leave, the employer must maintain the employee's group health insurance on the same terms as if the employee continued to work.

The employer is not required to maintain other non-health insurance benefits (such as life insurance) during the leave. However, the FMLA does require employers to restore an employee returning from approved leave to the same benefits he/she had prior to the leave, with no penalty or waiting periods. Thus, if an employee fails to pay his/her benefit premiums during the leave, an employer may decide to continue such benefits at its own expense during the leave or should make sure that applicable benefit plans allow immediate resumption of benefits. See the [DOL Compliance Guide](#) and 2008 regulation [29 C.F.R. §§ 825.209 – 825.215](#) for more information.

Substitution of Paid Leave:

FMLA leave is generally unpaid leave. However, employees may substitute available paid leave for otherwise unpaid FMLA leave. Employers may also require that an employee use available paid leave. Any paid leave time used by the employee does count toward the employee's FMLA leave entitlement. The 2008 regulations clarify that if an employee wants to substitute paid leave, he/she must comply with the employer's paid leave policies and procedures with respect to use of that paid leave. The employer must notify employees of any additional procedural requirements that apply to the use of paid leave in the **Notice of Rights and Responsibilities** (given to employees when leave is requested). See 2008 regulation [29 C.F.R. § 825.207](#) for more information.

Reinstatement:

Upon return from an approved leave, the employee must be reinstated to the same or an equivalent position, with the same pay, benefits, and other terms and conditions. Certain exceptions apply for "key employees." See DOL [Compliance Guide](#) for more information on key employees.

Education employees:

Special rules apply to some employees of local educational agencies, including public elementary and secondary schools. "Instructional employees" are subject to special rules when taking leave (a) more than 5 weeks prior to the end of a term; (b) less than 5 weeks prior to the end of a term; and (c) less than 3 weeks from the end of a term. For more information see: [29 C.F.R. § § 825.600 – 825.604](#).

Discrimination:

An employer may not interfere with, restrain or deny the exercise of FMLA rights. Employees may not be discharged or discriminated against for taking leave. Nor may the use of FMLA leave be used as a negative factor in a “no fault” attendance policy or in any employment action, including hiring, promotion or disciplinary actions. See 2008 regulation, [29 C.F.R. § 825.220](#).

Enforcement:

The FMLA is enforced by the U.S. DOL’s Employment Standards Administration, Wage and Hour Division. The agency investigates complaints of violations, and is authorized to bring action in court to compel compliance. In addition, eligible employees may bring a private lawsuit against an employer for violations. An employee is not required to file a complaint with the Wage and Hour Division prior to bringing such action. See 2008 regulations at [29 C.F.R. § 825.400 – 825.404](#).

APPENDIX B – MAINE FAMILY MEDICAL LEAVE ACT

Maine has enacted its own Family Medical Leave Law (MFMLA) entitling eligible employees of certain employers to 10 workweeks of leave in any two-year period. (26 M.R.S.A. § 843 *et seq.*; PL 2007 c. 233) The MFMLA is modeled after the federal FMLA, but has some important differences. It is very possible that some employees could be covered under either the state or federal FMLA laws, or both. Thus, when presented with a leave request, an employer should analyze the eligibility requirements of each law separately.

Covered Employers:

Maine's FMLA applies to city, town and municipal agency employers with 25 or more employees. *See* 26 M.R.S.A. § 843(3). The law defines "employee" quite broadly, to include any person "permitted, required or directed by an employer in consideration of direct or indirect gain or profit to engage in any employment." Employee does not include an independent contractor. 26 M.R.S.A. § 843(1).

Employee Eligibility:

Employee eligibility under the MFMLA differs from the federal FMLA in three important ways:

- In order to be eligible for MFMLA leave, an employee must have worked for the same employer for at least 12 *consecutive* months (under federal law, the 12 month work requirement need not be consecutive).
- An employee must work at a permanent worksite with at least 15 employees.
- Under the MFMLA there is no 1,250 hour work requirement.

Thus, in some situations, an employee may not qualify for federal FMLA leave because the individual has not worked 1,250 hours in the previous year, but the individual may qualify for Maine FMLA leave because he/she has been employed for 12 consecutive months.

Leave Entitlement:

Under the MFMLA, an eligible employee is entitled to up to 10 workweeks of leave in a two-year period for the following reasons. Effective September 20, 2007, the Legislature added "domestic partners" to the entitlement to leave, and added a new entitlement to leave for military deaths/injuries. Effective July 18, 2008, the MFMLA includes a right to leave for the purpose of caring for a sibling. (PL 2007 c. 519).

- (1) the birth of the employee's child or the employee's domestic partner's child;
- (2) placement of a child 16 years of age or less with the employee or with the employee's domestic partner in connection with the adoption of the child by the employee or the employee's domestic partner;
- (3) A child, a domestic partner's child, parent, domestic partner, sibling or spouse with a serious health condition;
- (4) The employee's own serious health condition;
- (5) The donation of an organ of that employee for a human organ transplant;

(6) The death or serious health condition of the employee's spouse, domestic partner, parent, sibling or child if the spouse, domestic partner, parent, sibling or child as a member of the state military forces, as defined in 37-B M.R.S.A. §102, or the U.S. Armed Forces, including the National Guard and Reserves, dies or incurs a serious health condition while on active duty. PL 2007 c. 388; PL 2007 c. 261.

Serious health condition is defined in the law as an illness, injury, impairment or physical or mental condition that involves: (a) inpatient care in a hospital, hospice or residential medical care facility; or (b) continuing treatment by a health care provider. 26 M.R.S.A. § 843(6).

Domestic partner is defined as: the partner of an employee who:

- Is a mentally competent adult as is the employee;
 - o Has been legally domiciled with the employee for at least 12 months;
 - o Is not legally married to or legally separated from another individual;
 - o Is the sole partner of the employee and expects to remain so;
 - o Is not a sibling of the employee; and
 - o Is jointly responsible with the employee for each other's common welfare as evidenced by joint living arrangements, joint financial arrangements or joint ownership of real or personal property. PL 2007 c. 375.

Sibling is defined as “a sibling of an employee who is jointly responsible with the employee for each other's common welfare as evidenced by joint living arrangements and joint financial arrangements.”

Intermittent Leave:

In response to a 2006 court decision that held that the MFMLA contained no requirement for intermittent leave, the Maine Legislature amended the law to allow intermittent leave in circumstances similar to the federal law. See *Brown v. Eastern Maine Medical Center*, 2006 U.S. Dist. LEXIS 50593 (D.Me. 2006); PL 2006 c. 233.

Effective September 20, 2007, the MFMLA requires covered employers to provide intermittent leave or a reduced work schedule, if medically necessary, for the employee's serious health condition, a parent, child, domestic partner or spouse with a serious health condition, or for organ donation. Intermittent leave for the birth, adoption or foster care placement of a child is available only by agreement of the employer and employee. PL 2006 c.233.

If intermittent leave is taken, the employer may temporarily transfer the employee to an available alternative position for which the employee is qualified and (1) which has equivalent pay and benefits and (2) better accommodates the intermittent leave schedule. PL 2006 c. 233.

Employee Notice/Certification:

An employee needing leave is required to give at least 30 days prior notice of the intended start and end of leave, unless prevented from giving notice by a medical emergency.

The employee may be required to provide medical certification from a physician to verify the amount of leave needed. Note that the law allows an employee that has “in good faith” relied on treatment by prayer or spiritual means, pursuant to the tenets of a recognized church or

religious denomination, to submit certification from an accredited practitioner of those healing methods. 26 M.R.S.A. § 844(1)(B).

Employers must post a poster concerning MFMLA, available from the Maine DOL.

Preservation of Benefits:

An employer must allow an employee on leave to maintain employee benefits at his/her expense. The parties may negotiate to maintain benefits at employer expense.

Restoration:

At the conclusion of an approved MFMLA leave, the employer must restore the employee to the same or an equivalent position with same seniority status, benefits, pay and other terms and conditions of employment. There is a limited exception to the employee's right to job restoration, if the employer can prove that the employee was not restored to the same or equivalent position due to conditions unrelated to the employees exercise of leave rights. 26 M.R.S.A. § 845.

Discrimination:

The use of leave may not result in the loss of any employee benefits accrued before the leave was taken. Nor may the leave result in loss of seniority or contract rights. In addition, an employer may not interfere with, restrain or deny the exercise of or the attempt to exercise any right provided under the MFMLA. Nor may an employer discharge, fine, suspend, expel, discipline or in any other manner discriminate against any employee for exercising any right under the Maine FMLA or for opposing any practice made illegal by the MFMLA. 26 M.R.S.A. § 846-7.

APPENDIX C - ELECTRONIC COMMUNICATION POLICY

The Town of Gray (“the Town”), in an age of growing technology and electronic communication, is implementing a policy to clearly define employee expectations and responsibilities.

“**System**” means all telephones, computers, facsimile machines, voicemail, e-mail, and other electronic communication, copying or data storage systems or equipment leased, owned or in the possession of the Town, including, but not limited to, any computer, computer system, or any storage device or medium that the Town provides to an employee or that is physically or electronically connected to any other part of the System. “**Electronic Communication**” means all electronic communications, data, software, files, and other information created, modified, located upon, received or transmitted by, or stored upon, any part of the System, including, but not limited to e-mail, voicemail, and Internet usage.

All parts of the System are owned by the Town and/or are provided solely for use in the Town’s business activities. All Electronic Communications are the Town’s property. The Town has the right and the ability to monitor and review all Electronic Communications at any time without notice to its employees or any other party and for any purpose whatsoever.

Town employees may not use the System, or send, receive, create or store Electronic Communications upon the System, in a manner that is illegal, disruptive to others, or that interferes with the Town’s business activities. All Town employees are prohibited from using any part of the System to harass others, or to download, obtain, display, store, receive or transmit:

- a) Any information that is sexually explicit, obscene, or of a sexual nature, that contain libelous or defamatory material, or that would not be permitted on any bulletin located on Town property;
- b) Any ethnic, racial or religious slurs, or anything that is, or may be construed as, disparagement of others based on race, color, national origin, ancestry, gender, sexual orientation, age, disability, religious or political beliefs, or any other basis prohibited by law; or
- c) Any communications that are derogatory of fellow employees (except as may be required as part of the Town’s business activities). The System may also not be used to solicit anyone for any commercial, religious, charitable, or political causes, or for outside organizations. Except as otherwise provided below, the System may not be used for any purpose that is not related to Town business.

E-mail is used to transmit and receive messages internally and externally on matters of business connected to the Town. The occasional employee use of e-mail with permissible content for personal matters is not prohibited, but is discouraged.

Voicemail is used to leave messages for employees regarding matters of a business nature. Voicemail boxes will occasionally be emptied to free up System space.

Internet Usage is to be limited to matters of business connected to the Town. The occasional use of the Internet for otherwise permissible personal matters is not prohibited, but is discouraged. Any downloading of materials or loading of programs/software onto any part of the System without permission from Town technical staff is prohibited.

The workplace activities of Town employees reflect upon, and may create liability for, the Town. The person signing as an employee below acknowledges receiving a copy of this policy and understands that the Town may take disciplinary action, up to and including termination of employment, against any employee who violates the terms of this policy as those terms may be changed and/or supplemented from time to time by the Town.

APPENDIX D – EMPLOYER / EMPLOYEE CONTRIBUTION

A. Retirement Contribution:

Ordered the Gray Town Council will match the retirement contribution amount for the town employees at 6% and will increase the contribution at 7.5% for 10 years of service, 8% for 15 years of service, 8.5% for 20 years of service and a maximum of 9% for 25 years of service and that the increase to employees retirement plan will not exceed the employee's contribution.

APPENDIX E - OPTIONAL BENEFITS

- A. Vision Plan
- B. Dental
- C. Income Protection
- D. Medical Reimbursement Plan
- E. All other Town Manager approved plans that are 100% Employee funded

APPENDIX F – INFECTIOUS DISEASE POLICY

A. Purpose

This is to establish the policy of the Town for managing infectious disease issues as they relate to employees and/or prospective employees including but not limited to the following diseases: AIDS, Chickenpox, Hepatitis A, Hepatitis B, Impetigo, Measles, Mumps, Pertussis, and Parasitic Infestations. Any employee or volunteer who could or does come into contact with bodily fluids while performing their job as a Town employee or volunteer, should immediately reference the Town Exposure Control Plan. Copies of the Exposure Control Plan are available in the Town Manager's office, as well as in the Police, Fire/Rescue, Public Works and Community Services Departments.

B. Policy

1. It is the policy of the Town to assure to the extent possible a safe and beautiful work environment.
2. It is also the policy of the Town to ensure full compliance with state, federal, and local requirements dealing with infectious diseases.
3. Town procedures shall comply with the Center for Disease Control recommendations for specific infectious diseases. These recommendations will be available through the employee's Department Head.
4. It is the obligation of all Town employees to take all reasonable precautions to protect themselves, co-workers, clients and the public from infectious diseases.
5. The Town shall make available to all employees and volunteers who have occupational exposure the Hepatitis B vaccination series and post exposure evaluation and follow-up. Please reference the Town Exposure Control Plan for detailed information on necessary procedure to follow.

C. Procedures

- 1) The Town will not discriminate against employees and/or prospective employees with infectious diseases who are otherwise qualified to perform their job functions with reasonable accommodation. Employees with infectious diseases will be treated under existing policies, state, federal, and local requirements, and collective bargaining agreements.
- 2) Where allowed by law, the Town retains the right to test employees for infectious diseases.
- 3) The Town must maintain confidentially regarding an employee's health status, and does not have a duty to inform other individual or organizations unless required by law.

- 4) Upon medical confirmation of an infectious disease that may be a threat to the public health, the affected employee has the responsibility to notify the Town's Personnel Administrator, and to carry out his or her assigned duties if reasonable accommodations can be made.
- 5) Upon notification by an employee that an infectious disease has been confirmed and is a threat to the public health, the Personnel Administrator will:
 - a) Secure, if possible, all appropriate releases for information from the employee and notify those individuals for whom those releases have been acquired.
 - b) Assist in the identification of reasonable accommodations to be made, if any.
 - c) Assist individual departments, if necessary, in complying with this policy.
 - d) The Town will treat all occupational infectious disease injuries or illnesses according to state law.
- 6) The Town will provide appropriate educational opportunities and current informational material on infectious disease issues, including prevention, protection, control measures, and treatment practices.
- 7) Individual departments have the right to develop protocols regarding infectious disease control provided that those protocols conform to this policy.
- 8) An employee cannot refuse to carry out his or her assigned duties when dealing with a co-worker or the public with an infectious disease unless that individual makes a threat of harm to the employee. Failure to adhere to this procedure will result in disciplinary action.

D. Accidental Needle Stick Procedure

Police, fire, rescue and solid waste personnel have the highest risk of exposure to needles and syringes. Exposure to a used, contaminated needle places an employee at risk for contracting an infectious disease. In the event of an accidental puncture with a contaminated needle, the procedure is as follows:

- 1) Wash the puncture site thoroughly with soap/disinfectant and water.
- 2) Report the incident to your supervisor.
- 3) Police, fire or rescue personnel must notify the medical facility receiving the patient of the incident.
- 4) Complete Incident and/or Workers Compensation forms.
- 5) Establish your potential exposure risk to infectious diseases.

6) Notify your Department Head to establish your:

- a) Tetanus status,
- b) Hepatitis B status, and
- c) HIV exposure.

7) Seek further medical attention if necessary.

E. Procedure for Exposure to AIDS infection

If a Town employee is exposed to the blood or body-fluid of a known or highly suspected AIDS infected person:

- 1) Wash the exposed areas thoroughly with soap and water. Clean any spills with one (1) part bleach to ten (10) parts water solution.
- 2) Report the incident to your supervisor.
- 3) Complete the Incident and Workers Compensation forms.
- 4) Notify your Department Head as soon as possible to schedule an appointment for a voluntary blood test.
- 5) The blood test will be drawn within two weeks of the incident, six months later, and nine months later. The blood test is sent to the Maine Public Health Division in Augusta. Results are received approximately one week later. You will be notified of the test results.
- 6) If all three specimens are negative, you are considered not to be infected.
- 7) Counseling occurs with each visit or when requested, and is also available to family members and co-workers.
- 8) Emotional counseling is available through a counselor of the employee's choice and to be provided by the Town.
- 9) Strict confidence will be maintained in all incidences unless appropriate medical and/or information releases have been obtained.

Digest of Ammendments

Originally Adopted March 1, 1979

Amended

December 21, 1999

September 18, 2001

December 4, 2001

April 6, 2004

January 6, 2009

February 17, 2009

July 7, 2009

February 2, 2010 Repealed and Replaced including Appendiccs

Acknowledgment

I acknowledge that I have received a copy of the Town Personnel Policy, and I do commit to read and follow these policies.

I am aware that if, at any time, I have questions regarding Town policies I should direct them to my Department Head or the Finance Department.

I know that Town policies and other related documents do not form a contract of employment and are not a guarantee by Town of the conditions and benefits that are described within them. Nevertheless, the provisions of such Town policies are incorporated into the acknowledgment, and I agree that I shall abide by its provisions.

I also am aware that Town of Gray, at any time, may on reasonable notice, change, add to, or delete from the provisions of the Town policies for which I will be notified.

Employee's Printed Name

Position

Employee's Signature

Date