



## PERSONNEL POLICY

Adopted by Board of Selectmen July 3, 2012

TOWN OF WARNER, NEW HAMPSHIRE

PERSONNEL POLICY

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# TOWN OF WARNER, NEW HAMPSHIRE

## PERSONNEL POLICY

### SECTION I: INTRODUCTION

#### PURPOSE

The purpose of this policy is to establish a basis for impartial personnel administration and to provide employer and employee alike with a ready reference to established policies and procedures for personnel administration.

This manual not only outlines the policies towards various phases of your employment, but it also indicates how the policy is to be administered. These policies also aid in achieving fair and equitable interpretations of policies which require personnel action on a regular, recurring basis. Moreover, it is the Town's intent that all employees have a deeper understanding of their role in the organization by having a copy of these policies, having them explained in detail, and knowing the mutual rights and responsibilities of all levels of the organization.

The Town is committed to providing equal opportunities for all persons making application for employment and for equity in treatment and advancement opportunities for its employees.

Therefore, each employee is responsible for making and keeping himself/herself aware of these policies and changes as they occur.

#### TOWN RIGHTS

The Town reserves the right to add to, delete from, or modify any of these policies either on an individual or organization-wide basis. Such additions, deletions, or modifications will be effective when approved by the Board of Selectmen; however a public hearing is required to be held prior to any changes being made. This manual is not intended to and does not create any contractual obligations for the Town.

The terms and conditions of fringe benefit programs are spelled out in greater detail in insurance contracts with the specific insurance carriers. Those terms and conditions will supersede any provisions herein to the contrary.

**All employees are employed "at will" and have no employment contracts of any type with the Town. Employees may be terminated at any time when in the sole discretion of the employer, the continued employment of the employee is not in the best interest of the Town**

## **SECTION II: HIRING GUIDELINES**

### **HIRING AUTHORITY**

The hiring authority of the Town will be the Board of Selectmen, or duly authorized designee.

### **NON DISCRIMINATION**

There will be no discrimination in hiring.

### **RECRUITMENT AND SELECTION**

It is the policy of the Town that all positions will be filled by fully qualified persons who have been examined on the basis of the job related criteria. Wherever possible it is the policy of the Town to select persons currently employed by the Town to fill vacancies for which they are qualified.

### **ORIENTATION**

It will be the duty of the department head and the employee's immediate supervisor to provide a comprehensive orientation to employment in the Town. This orientation will include, but not be limited to: the goals, objectives and work rules of the department; the employee's job description; these policies and procedures, filling out all tax and benefit forms; safety and hazardous material's procedures; time keeping procedures; call-in procedures; and any other information that the employee requires to make a responsible entry into the employ of the Town.

### **EMPLOYEE CLASSIFICATIONS**

**Probationary.** Initial employment will be for a probationary period of 6 months. Employee performance will be reviewed on a regular basis to determine skill levels, adaptation to the job and the work environment, adaptation to fellow employees and the need, if any, for additional training. A probationary employee will be notified at least two weeks (14 days) prior to the end of their probationary period if they will be terminated, recommended for removal from probationary status, or recommended for an extended probationary period. An extended probationary period is to permit further evaluation of the employee's skills and adaptation to the job and will not exceed 90 days. There will be only one extension of a probationary period granted for any probationary employee. In the instance of an extended probation, notification of the employee as to his/her status can occur at any time but must be made known to them no later than 7 days prior to the end of the extension. Sick leave and vacation days will accrue during this period but will not be paid until the probationary period has been successfully completed.

**Temporary.** A temporary employee is one hired to work for a defined but limited, period of time for a special project, for an emergency, or for filling the position of an employee on a leave of absence or at long term training requires the addition of employees for a specific time. Such an appointment may also include a person hired under an existing federal manpower program.

The benefits offered to a temporary employee will be assessed in light of applicable Federal and State Laws, and these rules. Hours of work may be less than the standard work week.

**Seasonal.** A seasonal employee is one hired for work that can only be performed during certain times of the year. The hours of work for this type of position may vary due to weather and other factors which may affect work schedules. There are no benefits other than workers' compensation.

**On-Call Personnel.** An on-call employee is one who is called in when needed to fill a position with the Town. Fire Department Personnel work on an on-call basis.

**Part-Time.** A part-time employee is one who works between 10-34 hours per week on a continuing or indefinite basis. Part-time employees receive benefits and rights as provided in these policies, upon successful completion of the probationary period.

**Full-Time.** A full-time employee works a standard work week on a continuing or indefinite basis and who work 35-40 hours per week. Full-time employees receive all benefits and rights provided in these policies, upon successful completion of the probationary period.

Unless otherwise specified within this policy, the term "employees" when used refers to all employees.

## **PROMOTION/DEMOTION**

It will be the policy of the Town to seek the most qualified individuals to fill all positions. Promotion shall be used wherever possible to recognize skill, performance and service with the Town. In making a promotion decision, the Town will assess current employees for the necessary skills for the open position. An individual's performance in his/her current position will also be weighed as an indicator of likely success in a new position.

An employee promoted to a higher classification will serve a six-month probation period in that higher classification. The probation may be extended by mutual consent of the department and the individual; however, any extension(s) shall not exceed 90 cumulative days. If an employee does not earn the status of being taken off probation in the higher classification, the employee will revert to his/her previous or a similar classification.

## **EMPLOYMENT OF RELATIVES**

Nothing in the Town's equal employment opportunity policy is intended to be interpreted as preventing the Town from reasonably regulating nepotism for reasons of supervision, safety, security or morals. Relatives of employees of the Town may be eligible for employment with the Town as long as no conflicts in supervision, safety, security, morale, or potential conflicts of interest exist. If related persons are employed, they generally will not be employed in the same department.

## **REEMPLOYMENT OF FORMER EMPLOYEES**

Personnel who leave the employ of the Town and are rehired more than 90 days after separation, except those granted a leave of absence or recalled after a layoff of less than 12 months, will serve another 6-month probationary period, and will be treated as a new employee.

## **SECTION III: PERFORMANCE APPRAISAL**

It is the intent of the Town that each employee be aware of their progress and performance on the job. To this end, employee performance will be constantly reviewed, both informally and formally.

Each employee's performance will be reviewed in accordance with the provisions of this section. The performance review system is designed to:

- a. Maintain or improve each employee's job satisfaction and morale by letting him/her know that his/her supervisor is interested in his/her job progress and personal development.
- b. Assist in determining and recording special talents, skills and capabilities that might otherwise not be noticed or recognized.
- c. Provide an opportunity for each employee to discuss job problems and interests with his/her supervisor.
- d. Serve as a systematic guide for supervisors in planning each employee's further training.
- e. Assure considered opinion of an employee's performance rather than snap judgment.
- f. Assist in planning personnel moves and placements that will best use each employee's capabilities.
- g. Assemble substantiating data for use as a guide, although not necessarily the sole governing factor, for such purposes as wage adjustments, promotions, disciplinary actions, and reassignments.

Employee performance evaluations will be in writing using a standard form and shall be made a part of the employee's personnel file. In all cases, the evaluation will be discussed with the employee by their immediate supervisor and reviewed by the department head, the Town Administrator and/or Board of Selectmen.

Probationary employees shall be evaluated at the end of 90 and 150 days during the six month probationary period. The probationary employee's immediate supervisor will notify the Town Administrator and/or Board of Selectmen at least 160 days after hire of any recommendation for extension of the probationary period, termination of employment, or continuation as an employee of the Town. In each case, the supervisor will provide written reasons and documentation for the recommendation.

Should a probationary period be extended for 30 days, the probationary employee's immediate supervisor will notify the Town Administrator and/or Board of Selectmen at least 7 days prior to the expiration of the extension of their recommendation for continuation as an employee or termination of employment.

Commencing with the employee's anniversary date, performance evaluations shall be conducted at least annually.



## **SECTION IV: COMPENSATION**

### **BASE**

The Town's pay scales, exclusive of the Library, are based on annual comparisons to other municipal pay scales.

No position shall be assigned a higher salary than the maximum or lower than the minimum salary provided for the position unless the salary scale for the classification is modified. Increases to the wage scale will be made by the Board of Selectmen during a regularly scheduled Selectmen's Meeting as deemed necessary and does not require a public hearing however, employees will be notified of changes via memorandums.

### **OVERTIME**

From time to time it may be necessary for an employee to perform overtime work. All overtime must be approved in advance by the Department Head. Most non-exempt employees, with the exception of certain law enforcement and fire protection employees, are entitled to be paid one and one-half (1 1/2) times their regular rate of pay for all time worked in excess of forty hours per week. Sick days, holidays, vacation time, leaves of absences and other time off benefits are not counted as time worked for the purposes of overtime with the exception of snow removal or emergency situations as indicated at the time of occurrence.

### **HOLIDAYS**

Full-time and part-time employees who are scheduled to work on that holiday shall be entitled to the following ten paid holidays:

NEW YEAR'S DAY  
MARTIN LUTHER KING DAY  
PRESIDENTS' DAY  
MEMORIAL DAY  
INDEPENDENCE DAY

LABOR DAY  
VETERANS' DAY  
THANKSGIVING DAY  
DAY AFTER THANKSGIVING \*  
CHRISTMAS DAY

These holidays are to be celebrated on the appointed days or as appointed by law. In the event a holiday falls on a Saturday the preceding Friday shall be observed as the holiday. If a holiday falls on a Sunday the following Monday shall be observed as the holiday. \* The Town Hall celebrates/is closed on Columbus Day in place of day after Thanksgiving and the Transfer Station celebrates/is closed on Easter Sunday in place of day after Thanksgiving. Any other holidays listed above which fall on a Friday become a floating holiday for the Town Hall staff and must be used within the same calendar year. All holidays must be taken in full day increments only. Pay will be at the normal pay rate.

Payment for holidays will be as follows:

- a. Holidays not worked

Every employee who meets the conditions for holiday pay will be paid one normal day's pay for each holiday. Part-time employees whose regularly scheduled work day falls on a holiday shall receive holiday pay equal to their regular day hours.

b. Holidays worked

Employees called in to work on a holiday shall be paid time and one half for all hours worked on such holiday. Scheduled employees will be paid straight time for hours worked on a holiday within their regular scheduled shift, plus their holiday pay.

At the discretion of the department head, an employee required to work a holiday may take another day off at the convenience of the department at their regular rate of pay.

Should a holiday fall within a vacation period, it shall not be counted as part of the annual leave.

## **SEVERANCE**

Employees who separate from employment in good standing with the Town shall be entitled to receive payment for accrued vacation/annual leave, unused sick leave, unused compensatory time, and/or any other benefits they may be entitled to receive as documented in these policies.

In order to separate from employment in good standing, the employee must provide at least 14 days notice for hourly employees and 30 days notice for department heads. In addition, the employee must work out to the end date given in their notice.

The Town will offer the employee the opportunity to continue those benefits covered by State or Federal Law, under the terms and conditions allowed by those laws.

## **SECTION V: ATTENDANCE**

### **HOURS OF WORK**

The Town's work week begins on Sunday at 12:00 a.m. (midnight) and ends on Saturday at 11:59 p.m. Because of the nature of Town business, an employee's work schedule may vary depending on the job and department. When hired, the Department Head will inform the employee of the work schedule.

### **CALL-IN PROCEDURE**

It is the responsibility of the employee's to personally notify their immediate supervisor or the Town Administrator, of any absence, and the reason for such absence, not previously approved, prior to the beginning of the work shift to be missed. In the case of a Department Head, notification must be made to the Town Administrator. A family member may notify the supervisor of an employee's absence in an emergency. Unless specifically authorized by a supervisor, an employee must call-in each day of absence thereafter. The message must include the reason for continued absence and an expected time of return.

## **ABSENTEEISM**

The Town provides services to residents of the community. In order to maintain our tradition of high quality, our offices and departments must be adequately staffed. Absenteeism detracts from this service and causes an undue burden for those employees who must fill in for absent employees.

Absence is defined as a failure to report for and remain at work as scheduled.

Unauthorized absence from work for a single day or part of a day may be cause for loss of pay for the time absent or cause for disciplinary action. An unauthorized absence of three consecutive scheduled working days may be deemed as a voluntary resignation.

Excessive absenteeism for any reason may be grounds for disciplinary action, up to and including discharge. Excessive absenteeism may result in the denial of step and/or merit increases.

## **TARDINESS**

The Town's ability to serve its residents in a timely manner is of utmost importance. Employee lateness has a detrimental effect on service delivery.

Employees shall notify their supervisor if they will be late by more than one-half hour. Occasional tardiness may be excused by the employee's supervisor; however, the employee will be paid only for hours worked. Emergency conditions may warrant occasional tardiness and must be reported to the supervisor. However, the department head shall have the sole discretion to determine if the condition warrants an excused tardiness. Tardiness may be grounds for disciplinary action, up to and including discharge. Tardiness may result in the denial of step and /or merit increases.

## **SECTION VI: LEAVE**

### **VACATION**

Paid vacation time is offered by the Town to full-time and part-time employees who work 20 or more hours per week and who have successfully completed the probationary period.

Full-time employees shall accrue vacation time at the rate of 3 1/3 hours per month during the first year of continuous employment (a total of 5 days) and at the rate of 6 2/3 hours per month thereafter (a total of 10 days).

- Years 6 - 15 of continuous employment a total of 15 days vacation per year (earned at a rate of 10 hours per month) will be granted.
- Years 16 - 25 of continuous employment a total of 20 days vacation will be granted (earned at a rate of 13 1/3 hours per month).
- After 25 of continuous employment a total of 25 days vacation will be granted (earned at a rate of 16 2/3 hours per month)

Part-time employees, who are scheduled to work twenty (20) hours or more per week but less than full-time hours shall receive an equivalent of one week vacation time during the first year of continuous employment and the equivalent of two weeks until year 5 at which time the schedule below will be

followed. The term “week” in this section refers to the amount of hours per week an employee was hired to perform (ex: 20, 25, 30 etc.) Unused vacation time in excess of the equivalent of two weeks shall not be carried over into the next calendar year.

Below is an example of vacation time for a 20 hour per week employee:

- Years 6 - 15 of continuous employment a total of 15 days vacation per year (earned at a rate of 5 hours per month) will be granted.
- Years 16 - 25 of continuous employment a total of 20 days vacation will be granted (earned at a rate of 6.65 hours per month).
- After 25 of continuous employment a total of 25 days vacation will be granted (earned at a rate of 8.375 hours per month)

Employees may take their earned vacation when desired unless there is a conflict in vacation schedules and providing at least one week prior notice is given. In such a case, the department head and/or supervisor will make the final decision, usually yielding to seniority. If a regular paid holiday occurs during the vacation period, the holiday retains its identity and is not counted as a day of vacation.

Vacation time will accrue from January 1 to December 31, of each year. Unused vacation time in excess of the equivalence of two week’s pay shall expire December 31<sup>st</sup> and not be carried forward. Vacation schedules shall be arranged so as to cause the least interference with the work load. Employees have a responsibility to request vacation time as far in advance as practical to avoid last minute conflicts and confusion.

Upon voluntary separation or layoff of employment, (such separation not being under threat of disciplinary action, as provided in these policies), an employee shall receive payment of any unused vacation leave not exceeding the equivalent of two weeks pay.

It is the policy of the Town not to grant payments in lieu of vacations or personal time.

### **PERSONAL DAY(S)**

A personal day is a day of paid leave granted to an employee to conduct business or activities that can only be conducted during the employee’s normal work day.

At the conclusion of an employee’s probationary period employees shall earn three personal days per year with full-time employees for example earning the time at a rate of 2 hours per month. Part-time employees working 20 hours per week will earn 1 hour per month; 25 hour a week employees earn 1.5 hours a month, etc. Personal days are non-accruing. Look at this with regard to the final day that is earned each year since they are earned on an accrual basis. Employees are allowed to carry one personal day into the next calendar year.

### **SICK TIME**

Sick leave is considered to be an emergency fringe benefit used only as needed. The purpose of sick leave is to prevent loss of income from absences due to illness or injury and, in particular, long-term disability due to catastrophic illness or injury. Sick leave will not be used to supplement other leave.

All full-time employees of the Town shall be entitled to four (4) hours paid sick leave for each calendar month worked effective January 1, 1976. Part-time employees, who are scheduled to work twenty (20) hours or more per week but less than full-time hours shall receive two (2) hours paid sick leave for each calendar month worked. Sick leave may be accumulated to a maximum of seven hundred and twenty hours (720) and shall remain to the credit of the employee until used for sickness or disability.

Probationary employees shall accrue sick leave during their probationary period but will not be paid for the use of the same until probation has been successfully completed.

Paid sick leave shall be granted for absence from duty for the following reasons:

- a. Illness
- b. Dental Care
- c. Doctor's appointment
- d. Exposure to contagious disease, quarantine
- e. Non-compensable bodily injury or disease
- f. Attendance upon members of the immediate family, whose illness requires the care of such employee, not in excess of two days, except with special prior approval of the department head, supervisor or the Town Administrator.

Should a spell of illness for which sick leave is taken exceed three (3) calendar days, a doctor's certificate will be required to return to work. Sick leave shall be earned and may be used from the date of employment after completion of probation, but in no event may sick leave be used before it is earned. Abuse of sick leave privileges shall be cause for disciplinary action up to and including dismissal.

Upon voluntary separation of employment by an employee hired prior to January 1, 2011, (such voluntary termination not being under threat of disciplinary action, as provided in these policies), an employee shall receive payment of any unused sick leave not exceeding a maximum accumulation of thirty (30) days. For the purpose of utilization, sick leave shall be converted to hours and payment will be for the equivalent of one month's salary (1 months salary = 4 weeks sick pay). This benefit is not available to employees hired after January 1, 2011.

## **MILITARY/RESERVE**

Employees who voluntarily or involuntarily serve in the United States armed forces or National Guard (collectively referred to as "uniformed services") will be provided with leaves of absence for such service or training in connection with such service in accordance with the federal Uniformed Services Employment and Reemployment Rights Act (USERRA)

Military leaves of absence will be unpaid, unless otherwise required by law. You may elect to take part of, or all of, your accrued vacation time with pay during your military leave of absence but you are not required to do so.

**Notice of Leave Request:** An employee needing time away from work for service or training in the uniformed services should make his/her Department Head aware of the need for leave as soon as the employee receives the written or verbal orders. It is requested that notice should be provided at least 30 days before the leave begins where it is possible to do so.

An employee's request for leave may include reasonable time off to get personal business in order prior to commencing service in the uniformed services. Reasonable time off will be decided by the Department Head based on a case by case basis.

**Health Coverage:** If a military leave lasts less than 31 days, the employee's health insurance will be continued and the employee will pay their regular contribution for the cost of healthcare insurance. Payment for insurance with less than 31 days leave may be paid in advance or upon return through payroll deductions.

If a military leave lasts 31 days or more, then the employee's health insurance coverage will cease and the employee will be eligible to elect to continue his or her health insurance coverage at their own expense for up to 24 months in accordance with USERRA. The cost for continuation coverage will be the full cost of the premium and a 2% administrative fee may also be charged. When the employee returns to work, they will be reinstated to the health insurance benefit with no waiting period even if coverage terminated during the leave.

**Pension:** Upon reemployment the employee is treated as if there was no break in service for participating, vesting and accrual purposes. If applicable, the employee may elect to make up any missed contributions or elective deferrals, but is not required to do so.

**Reinstatement:** Employees wishing to be reinstated following military leave should promptly notify their Department Head of their desire to be reinstated. If the leave is for service of less than 31 days, then the employee should return to work on the first full regularly scheduled work day following completion of service, allowing for at least 24 hours of rest and time for safe transportation back from the service. If the service lasts 31 to 180 days, then the employee should notify their Department Head of the desire for reinstatement within 14 days of completing service. If military leave lasts more than 180 days, then the employee should notify their Department Head of the desire for reinstatement within 90 days of completing service.

The Town will reinstate eligible employees promptly. Eligibility for reemployment will be determined with reference to USERRA and its implementing regulations. Employees seeking reinstatement may be asked to provide documentation of the timeliness of the reinstatement request, the total time spent in service, and/or a statement that the reason for separation or dismissal from service is not disqualifying. Employees cannot waive their reemployment rights in advance of being released from uniformed service.

**Disabled Service Members:** If a returning employee was disabled or a disability was aggravated during uniformed service, the Town will make reasonable accommodations and efforts to help the employee become qualified to perform the duties of their reemployment position.

**Statement Against Discrimination and Retaliation:** The Town will not discriminate in hiring, employment, reemployment, or any benefits of employment against any individual because of that individual's service in the United States uniformed services. The Town also will not tolerate any retaliation against any individuals because of their service in the uniformed services or their engagement in any other activities protected under USERRA.

## **JURY DUTY**

An employee called to Jury Duty shall be paid the difference between their regular pay and Juror's pay upon presentation of an official statement of jury pay received. Employees excused from jury duty must report back to work during their normal work hours.

## **BEREAVEMENT**

Employees may take and will be paid bereavement leave as provided below. The employee may be required to provide verification of absence prior to granting leave.

- Probationary employees will be granted bereavement leave and pay only for a death which occurs in their immediate family.
- Leave and payment for five (5) consecutive scheduled days will be paid when there is a death in the immediate family (parent(s), spouse, children/stepchildren, or other relatives residing with the employee).
- Three (3) consecutive scheduled days leave and payment will be granted for the death of guardians, mother-in-law, father-in-law, and brothers/sisters. One day leave and payment shall be granted for others (grandparents, grandchildren, aunts, uncles) that do not reside with the employee. Additional time may be granted at the discretion of the Board of Selectmen on a case-by-case basis.

## **EXTENDED LEAVES OF ABSENCE**

The Town may grant employees extended leaves of absence under certain circumstances. Except as stated below; employees will not receive compensation during such an extended leave.

Employees generally are eligible to request extended leaves of absence if they have completed at least one (1) year of service, or as specified by law. The granting and duration of each leave of absence and the compensation received by the employee if any, during the extended leave will be determined by the Town in conjunction with applicable Town policy, State or Federal Law. The following extended leaves will be considered:

**PERSONAL LEAVES OF ABSENCE:** Employees may be granted a leave of absence to attend to personal matters in cases in which the Town determines that an extended period of time away from the job will be in the best interests of the employee and the Town.

## **FAMILY AND MEDICAL LEAVES OF ABSENCE**

Eligible employees may take up to twelve (12) weeks of unpaid family/medical leave within a 12-month period and be restored to the same or equivalent position upon return to work. These twelve (12) weeks will be tracked beginning on the first day of leave. To be eligible for family/medical leave, the employee must have worked for the Town for at least twelve (12) months; must have worked at least twelve hundred fifty (1,250) hours in the past twelve (12) months; and must work at a work site where the Town employs 50 or more employees within a 75 mile radius.

Eligible employees may take family/medical leave for any of the following reasons:

- The birth of your child and in order to care for the child (leave must be taken within 12 months of the birth);
- The placement of a child into the employee's home for adoptive or foster care (leave must be taken within 12 months of the placement);
- To care for the employee's spouse, parent, minor child, or adult child (when the adult child is not capable of self care and the employee is needed for such care) with a serious health condition; or
- Due to the employee's own serious health condition which renders the employee unable to perform the functions of his or her position.

The Town has the right to designate FMLA leave any time an eligible employee requests time off for a qualifying reason. For example, if an eligible employee suffers a work related injury that qualifies as a serious health condition, the Town has the right to designate any time away from work as FMLA leave.

**Tracking Leave:** As stated above, an eligible employee is entitled to a total of twelve (12) work weeks of leave during any twelve (12) month period. That twelve (12) month period is defined as a "rolling" twelve (12) month period measured backward from the date an employee begins an FMLA leave. In other words, the number of weeks an employee has available upon the beginning of a FMLA leave will be twelve (12) weeks less the number of FMLA leave weeks taken in the twelve (12) month period prior to the beginning of the current FMLA leave (the "Available Leave Weeks"). For example, if an employee used four weeks beginning February 1, 2006, four weeks beginning June 1, 2006, and four weeks beginning December 1, 2006, the employee would not be entitled to any additional leave until February 1, 2007. Beginning on February 1, 2007, the employee would be entitled to four weeks of leave; on June 1, 2007, the employee would be entitled to four additional weeks; and so on.

FMLA leaves for the birth or placement for adoption or foster care of a child, as described above, must be taken all at once unless otherwise agreed to by the Town. If medically necessary, FMLA leaves due to illness as described above may be taken on an intermittent or reduced leave schedule. If FMLA leave is requested on this basis, however, the Town may require the employee to transfer temporarily to an alternative position which better accommodates periods of absence or a part time schedule, provided that the position has equivalent pay and benefits.

Employees taking intermittent or reduced schedule leave will be paid for the time they work, and the leave time away from work will be unpaid unless the employee qualifies for workers' compensation, short-term disability, or other benefits. If you are a salaried employee, the Town will adjust the employee's salary based on the amount of time actually worked.

**Employee Benefits:** Employees are required to use any accrued, unused vacation and sick/personal days during FMLA leave unless the FMLA leave is otherwise paid through workers' compensation benefits, short-term disability benefits, or other benefits. The substitution of paid leave time for unpaid leave time does not extend the 12-week FMLA leave period. Also, your FMLA leave may run concurrently with other types of leave, such as maternity leave.

During an approved FMLA leave, the Town will maintain the employee's health benefits under the same terms and conditions applicable to employees not on leave.



- If paid leave is substituted for unpaid FMLA leave, the Town will deduct the employee's portion of the health plan premium as a regular payroll deduction.
- If the employee's leave is unpaid, or is paid through workers' compensation, short-term disability benefits, or other benefits not provided through the Town's payroll system, the employee must pay his/her portion of the premium by making arrangements with the Finance Office.
- Health and other benefit coverage may be canceled if the employee's premium payment is more than 30 days late.
- If the employee elects not to return to work at the end of the leave, he/she will be required to reimburse the Town for the cost of the premiums paid by the Town for maintaining coverage during his/her unpaid leave, unless he/she cannot return to work because of a serious health condition or because of other circumstances beyond the employee's control.

If the FMLA leave is for a condition that is covered under the Town's short or long term disability insurance, covered employees may apply for benefit coverage.

Benefit entitlements based on length of service will be preserved at the level earned as of the commencement of the leave, but will not accrue further during the leave period. For example, an employee on FMLA leave will not accrue additional sick/personal days.

**Requesting Leave:** If the employee's need for leave is foreseeable such as for the birth of a child or planned medical treatment, he/she must give the Department Head at least 30 days' prior written notice. In cases of planned medical treatment, please make efforts to schedule the treatment to avoid disrupting the Town's operations.

If the need for leave is not foreseeable, the employee must give notice to the Department Head as soon as practicable (within 1 or 2 business days of learning of the need for leave). Failure to provide such notice may be grounds for delaying the leave. If the employee is not able to notify the Town of the need for leave personally because of illness, the employee should ask someone else to call on his/her behalf.

**Medical Certifications:** If the employee is on leave because of his/her own or a covered family member's serious health condition, the appropriate health care provider must supply a medical certification. If possible, the employee should provide the medical certification before leave begins. If that is not possible, the employee must provide the medical certification within 15 days of beginning leave. If the employee does not provide the required medical certification in a timely manner, leave may be delayed. If certification is not provided at all, the Town will not be able to determine whether the employee is eligible for FMLA leave and leave will be denied.

The Town, at its expense, may require an examination by a second health care provider designated by the Town. If the second health care provider's opinion conflicts with the original medical certification, the Town, at its expense, may require a third health care provider agreed upon by the employee and the Town to conduct an examination and provide a final and binding opinion.

The Town may also require subsequent medical re-certification. Failure to provide requested re-certifications within 15 days may result in delay of further leave.

**Reporting While on Leave:** The employee must contact the Town on a regular basis to provide updates about the status of the medical condition and intention to return to work. In addition, the employee must give notice as soon as practicable (within two business days if feasible) if the dates of leave change or are extended or initially were unknown.

**No Work While on Leave:** The taking of another job (including self-employment) while on FMLA leave or any other authorized leave may lead to disciplinary action, up to and including termination of employment.

**Returning to Work:** At the end of an authorized FMLA leave, the employee will be reinstated to his or her original position or an equivalent position. However, certain highly compensated employees or “key employees” may be denied restoration to their prior or equivalent position if keeping the job open for the employee would result in substantial economic injury to the Town. Key employees are those employees who are among the highest paid ten percent of employees within 75 miles of the work site.

If the employee takes leave because of his/her own serious health condition, the employee will not be reinstated until he/she provides a fitness for duty certificate from his/her health care provider confirming that the employee is medically able to resume work.

**Coordination with Maternity Leave:** As stated in the Town’s Maternity Leave Policy, the Town provides female employees with a leave of absence for the period of temporary physical disability resulting from pregnancy, childbirth, and related medical conditions. A maternity leave begins when an employee is medically determined to be disabled and ends when medically determined to be able to return to work.

Maternity disability will be treated in the same manner as a Type D FMLA leave of absence. However, maternity leaves are not limited by any measure other than the period of medical disability. If a maternity disability is for the number of available FMLA leave weeks or less, the employee will be reinstated in accordance with this policy. If a maternity disability exceeds the available FMLA leave weeks, the employee will be reinstated unless business necessity makes reinstatement impossible or unreasonable.

An employee who uses less than the Available Leave Weeks for Type D leave for maternity may take additional Type A FMLA leave after the end of the disability period for a period not to exceed the Available Leave Weeks.

**Coordination with Other Town Policies; Reference to FMLA and Federal Regulations:** In the event of any conflicts between this policy and other Town policies, the provisions of this policy will govern. The FMLA and the FMLA regulations issued by the U.S. Department of Labor contain many limitations and qualifications that are not stated in this policy. The Town reserves the right to apply the terms of the FMLA and the FMLA regulations to any individual circumstances

## **LEAVE WITHOUT PAY**

Leave without pay may be granted in one (1) month increments up to a total of 12 months for any one request at the discretion of the Board of Selectmen.

Employees desiring leave without pay must have exhausted all annual leave, and, in the case of a non-job related illness, all sick leave before being eligible to apply for leave without pay. Application must be made to the Selectmen at least 14 days before the start of the leave. The employee shall be notified at least seven (7) days before the requested start date of the decision of the Board of Selectmen regarding the employee's application.

Employee benefits such as health insurance and retirement may be continued at the expense of the employee for the period(s) specified by these rules and/or Federal or State Law. Employees shall not be entitled to any other benefits while on a leave without pay.

An employee wishing to return at the end of a leave without pay must notify the employer at least thirty (30) days prior to the end of the leave period. If the leave was due to non-job related illness, the employee must provide a certification of return ability to return to work from the attending physician. Any and all restrictions shall be included in the certificate. The Board of Selectmen shall notify the employee at least 10 days prior to the requested return date if the employee will be allowed to return, to what department they shall return to, the job they will return to, the schedule, any restrictions regarding the type of work performed, and any administrative or other details to be completed prior to his/her return to work.

An employee who accepts employment from another employer while on leave without pay shall be deemed to have voluntarily severed the employer/employee relationship with the Town.

## **COMPENSATORY TIME**

Compensatory time is generally discouraged but if used, it should be kept to a minimum. Supervisors may approve the use of compensatory time providing it is taken within the next pay period. Under no circumstance will compensatory time be "carried forward".

## **ADMINISTRATIVE LEAVE**

Administrative leave is intended to allow the Town to place an employee in a leave status with pay or without pay for a fixed duration pending the conclusion of an investigation, review of performance or other circumstances not covered under other policies of the Town that may require the removal of the employee from the workplace until the matter is reviewed and/or resolved.

A request for administrative leave shall be initiated in writing by an employee's department head for the circumstance stated above. The request shall clearly state the reasons for the request and the duration of the leave. The request shall be reviewed and approved by the Board of Selectmen.

## **SECTION VII: BENEFITS**

### **INSURANCES**

The Town provides and pays for health insurance and major medical benefits, minus employee contributions for full-time employees who are hired to work at least 35 hours per week, the first full month following their hiring. Single person and/or two-person coverage and/or family plan coverage are currently available at the Town's expense however changes to this payment structure may be made

at anytime by the Board of Selectmen at a regularly scheduled Selectmen's Meeting to which the employees will be noticed of. Employees should refer to the basic contract provision of the Town's plan available at Town Hall. As amendments are adopted a copy shall be provided to each employee.

An employee desiring health insurance must apply in writing on forms provided at time of hiring. Failure to make application during this time period will require the employee to wait until the Town's policy anniversary renewal date which occurs in January unless a qualifying event occurs beforehand.

Upon retirement and/or separation from the Town, the "Consolidated Omnibus Budget Reconciliation Act of 1985" (COBRA) as amended requires employers sponsoring group health plans to offer covered employees and their family members continuation of coverage rights for "qualified beneficiaries", the opportunity for a temporary extension of health coverage (called "continuation coverage") through the group at their own expense in certain instances where coverage would otherwise end. If an employee is terminated (fired) for misconduct, the Town is not obligated to offer COBRA coverage.

Extension is not automatic. The employee must contact the Finance Director for the "Notice of Qualifying Event" to arrange enrollment. The employee has fourteen (14) days from the date of notice to make a decision.

Coverage is not free. The employee must pay the necessary premium for coverage but at the low group rates. A payment schedule will be established with the employee and the employee will be expected to make the payments as set up. Employees who work/are hired for less than 35 hours per week have the option of purchasing insurance and arrangements can be made with the Finance Office.

## **WORKERS' COMPENSATION**

This Town complies with the laws of the State of New Hampshire (RSA 281-A) with regard to Workers' Compensation Insurance. Basic information regarding this coverage, including the Town's carrier, is posted in each work area. Specific questions regarding reporting injuries and benefit provisions should be directed to the employee's supervisor and/or department head.

## **UNEMPLOYMENT COMPENSATION**

This Town complies with the laws of the State of New Hampshire (RSA 282-A) with regard to unemployment compensation coverage for employees. General information on the law is posted in each work area. Particular information may be available from the New Hampshire Department of Employment Security local office for this area.

## **SHORT TERM DISABILITY**

The Town provides and pays for Short Term Disability Insurance (STD) for full-time employees. Employees should refer to the basic contract provision of the Town's plan available at Town Hall.

## **ACCIDENTAL DEATH AND DISMEMBERMENT (AD&D)**

The Town provides and pays for AD&D benefits for loss arising out of non-work related accidents. Employees should refer to the basic contract provision of the Town's plan available at the Town Hall.

## **DENTAL**

Available to all employees at the expense of the employee.

## **LIFE INSURANCE**

The Town provides and pays for a life insurance benefit of \$23,000 for full-time employees. Employees should refer to the basic contract provisions of the Town's plan available at the Town Hall. Fire Department personnel have certain coverage provided under the NH State Firemen's Association which the Town pays into for each employee of that department. These benefits can be viewed on their website (nhsfa.org).

## **RETIREMENT**

The Town participates in the New Hampshire Retirement System which all full-time employees who are hired to work at least 35 hours per week are required to participate in. The employer's contribution rate is determined on an annual basis by NHRS and will be paid by the Town.

## **POLICE AND FIRE RETIREMENT**

The police and fire departments presently have a separate retirement program and complete information and handbooks describing this program are available from the Finance Office Group II municipal employees (police and fire personnel) shall be retired as outlined in the present Federal Labor Laws pertaining to mandatory retirement.

## **OTHER**

The Town provides a 457 deferred compensation plan to all employees. Participation in the plan is voluntary and shall be through payroll deduction from the individual employee. Other optional and voluntary programs may be offered from time to time by the Town. These will be open to all employees upon successful completion of the probationary period.

The specific benefits and obligations of these programs will be explained to all new employees at the time of hire with a reminder list given to employees on an annual basis.

## **EXPENSES**

The Town will reimburse employees for expenses associated with the execution of their job duties and responsibilities. Expenses eligible for reimbursements must be job related and may cover, but are not limited to such items as mileage, meals, lodging, tolls, fees, dues, etc.

Reimbursement will be made in accordance with specific policies promulgated in each department, and to the extent items are budgeted. All reimbursement requests must be accompanied by actual receipts of expenditures.

## **SECTION VIII: DISCIPLINE PROCEDURES**

It is the Town's policy to place as few restraints on personal conduct as possible. The Town is justifiably proud of its employees and the manner in which they conduct themselves. The Town relies on individual good judgment and sense of responsibility. Each employee is expected to conduct himself/herself in an appropriate manner. However, for the protection of its property, business interests, and other employees, the Town has established certain rules of conduct. Violations of any rule cannot be ignored.

These rules are published for the employee's information and to minimize the likelihood of any employee, through misunderstanding or otherwise, becoming subject to any disciplinary action. It is only fair that the employee should be familiar with these rules which the Town considers to be of importance. It is also fair that the employee be apprised of the procedures to be used should any disciplinary action be required. The employer believes in using a process that is fair to all, yet maintains employee responsibility.

For these reasons the employer uses a counseling model for handling disciplinary issues. This model is designed to bring deficiencies to the attention of the employee in as non-confrontational a manner as possible. After a verbal warning, a supervisor will meet with the offending employee and review the incident or incidents that led up to the meeting. The supervisor will remind the employee of his/her role in the Town and attempt to set reasonable and measurable goals for the employee, to enable that employee to improve his/her performance. Should performance not improve, the supervisor moves on to the next step which may include suspension or termination as the situation may warrant.

### **IMMEDIATE TERMINATION**

There are times when aforementioned model is not appropriate. Violation of (including but not be limited to) the following rules may be considered adequate justification for immediate termination of an employee:

- Possessing, carrying, or being under the influence of intoxicating beverages or narcotics on Town property.
- Stealing or attempting to steal property from any individual on Town property, or stealing or attempting to steal property from the Town.
- Provoked or unprovoked bodily assault upon any person, or fighting on Town property
- Immoral or indecent conduct on Town property
- Possession of firearms or any dangerous weapons, including explosives on Town property.
- Threatening, coercing, intimidating, or interfering with other employees.
- Insubordination to a supervisor, refusal to perform assignments, or directing abusive or threatening language at any supervisor, employee or official.
- Disclosing confidential information to unauthorized persons, or any action that might create poor public relations.
- Falsification of employment application(s), time card, work reports, or other employer records.
- Fraud committed by knowingly accepting pay for operations not performed on time or time not worked.
- Acts of sabotage, or other interference with Town projects.
- Defacing Town property.
- Conviction of a felony.

- Sleeping during working hours.
- Accepting or soliciting any gift, gratuity, favor, loan, or other item or consideration of monetary value from any person who has or is seeking to transact with the Town, or from any person within or outside the employer's employment whose interest may be affected by the employee's performance or nonperformance of official duty.
- Absence of three (3) consecutive working days without notification.
- Participating in an unauthorized job action.
- Unsafe or negligent operation of equipment or destruction of Town property or material or the property of another employee.
- Participating in civic or professional organization activities in a manner whereby confidential information is divulged.
- Misusing privileged information or revealing confidential data to outsiders.
- Using one's position in the Town or knowledge of its affairs for outside personal gains
- Engaging in practices and procedures that violate Federal, State, or local laws, ordinances, or rules.

## **DISCIPLINE PROCESS**

The following establishes the Town's disciplinary process. Discipline may be initiated at any step of the process depending on the seriousness of the offense. In all cases, the rule, policy or procedure that was violated will be reviewed with the employee to reinforce the behavior expected.

**Verbal Warning.** Any infraction of the rules, policies or procedures will warrant a verbal warning from the employee's immediate supervisor. In giving the warning the supervisor must inform the employee of the specific nature of the violation, remedial actions, and the consequences of further violations which may include but not limited to a written warning, suspension and/or discharge.

**Written Warning.** Any subsequent or serious violation of the rules, policies, or procedures of the Town of Warner may result in a written warning. A written warning is a more serious form of discipline and is specifically designed to alert the employee as to the seriousness of his/her deficiencies and potential action for further violation of the policies, procedures and rules. The employee will be asked to sign the warning to acknowledge receipt and understanding of the contents.

**Suspension.** Any subsequent or serious violation of the rules, policies, or procedures of the Town of Warner may result in the suspension of the employee. The *department head and/or supervisor* may suspend the employee for up to three (3) working days without pay. Suspensions of a longer duration must be approved by the Board of Selectmen.

**Termination.** Employees may be terminated from employment for a single serious violation of the rules, policies, or procedures, and/or for repeated violations of the rules, policies or procedures. The employee shall be advised in writing of the recommendation to terminate. The Board of Selectmen shall take action regarding the recommendation within fourteen (14) calendar days of its receipt. In the case of written warning, suspension or termination the employee will be given the opportunity to explain his/her actions prior to the imposition of the discipline.

An employee need not have been suspended for any previous violations before being terminated.

## **SEXUAL HARASSMENT**

### **A. Introduction**

The Town's goal is to provide a workplace that is free of sexual harassment. Sexual harassment of employees occurring in the workplace or in other settings in which employees may find themselves in connection with their employment is unlawful and will not be tolerated by our Town. Further, any retaliation against an individual who has complained about sexual harassment and/or retaliation against any individual who has cooperated in an investigation of sexual harassment is unlawful and will not be tolerated.

Because the Town takes allegations of sexual harassment seriously, we will respond promptly to complaints of sexual harassment. Where it is determined that such inappropriate conduct has occurred, the Town will act promptly to eliminate the conduct and impose any necessary corrective action, including disciplinary action where appropriate.

### **B. Definition of Sexual Harassment**

Sexual harassment means unwelcome sexual advances, requests for sexual favors, and other verbal, physical, and nonphysical conduct of a sexual nature when:

- Submission to or rejection of such conduct is made explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual, or for awarding or withholding a favorable employment opportunity, evaluation, or assistance; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's performance at work, or creates an intimidating, hostile, humiliating, or sexually offensive work environment.

Under this definition, a direct or implied request by a supervisor for sexual favors in exchange for actual or promised job benefits such as favorable performance reviews, salary increases, promotions, increased benefits or continued employment constitutes sexual harassment.

The definition of sexual harassment is broad and, in addition to the above examples, other unwelcome sexually oriented conduct, whether it is intended or not, that has the effect of creating a workplace that is hostile, offensive, intimidating, or humiliating to male or female employees may also constitute sexual harassment. Sexual harassment also includes non-sexual comments and conduct that are directed at an individual because of his or her gender or otherwise motivated by gender discrimination.

It is not possible to list all of the additional circumstances and behaviors that may constitute sexual harassment or other inappropriate conduct that will not be tolerated. However, the following are some examples of prohibited conduct:

- Unwelcome sexual advances, whether or not they involve physical touching;
- Sexual epithets; sexual jokes; written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body; comment about an individual's sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, cartoons;
- Leering, whistling, brushing against the body; sexual gestures;
- Suggestive or insulting comments;



- Inquiries into an individual's sexual experiences; and
- Discussion of one's sexual activities.

### C. Complaints of Sexual Harassment

Experience has shown that a clear statement to the person engaging in the offensive behavior is often all that is necessary to stop the conduct. If the employee believes he/she is being harassed, the Town encourages the employee to let the person engaging in the conduct know how you feel. However, if the employee does not feel comfortable taking this step, the Town certainly do not require it. If the employee believes that he/she has been subjected to sexual harassment, the employee should report the incident in accordance with the Reporting Procedure contained as part of this policy. The matter will be promptly investigated and where it is determined that such inappropriate conduct has occurred, action will be taken to eliminate and correct the conduct. Employees who violate this policy will be subject to disciplinary action, up to and including termination of employment.

### D. Retaliation

Retaliation against an employee who complains in good faith about sexual harassment or who participates in good faith in an investigation of a complaint is a violation of this policy and is prohibited by law. If the employee believes that he/she has been subjected to retaliation, the employee should report the incident in accordance with the Reporting Procedure contained in this policy.

### E. Reporting Procedure for Sexual and Other Unlawful Harassment, Discrimination and Retaliation

If the employee feels that he/she is a victim of sexual or other unlawful harassment and discrimination or retaliation, the employee should immediately report such actions in accordance with the following procedure. All complaints will be promptly and appropriately investigated.

1. If you believe that you are a victim of sexual or other unlawful harassment and discrimination or retaliation, you should report the act immediately to your Department Head or the Town Administrator.
2. Supervisors and managers who become aware of discriminating or harassing conduct, a complaint of discrimination or harassment, or retaliation must report the conduct and/or complaint immediately to the Town Administrator or the Board of Selectmen.
3. The Town will promptly investigate every reported incident if appropriate. Any employee, supervisor, or agent of the Town who has been found to have sexually or unlawfully harass, discriminate against, or retaliate against another employee may be subject to appropriate disciplinary action, up to and including immediate discharge. The complainant will be informed of the outcome of the investigation.
4. The Town will conduct all investigations in a discreet manner. Disclosure of complaints will be limited to those with a need to know.

**VERBAL WARNING NOTE** *(example of style which may be used)*

I gave a verbal warning to

\_\_\_\_\_

*(Employee Name)*

on this date for violating \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*(Cite name of regulation, policy or procedure)*

The above named employee was advised that any further violations of this or other rules could result in further disciplinary action.

Name:

\_\_\_\_\_

Date:

\_\_\_\_\_

**WRITTEN WARNING** *(example of style which may be used)*

To: \_\_\_\_\_

From: \_\_\_\_\_

Date: \_\_\_\_\_

Subject: Written Warning

You are hereby given a written warning as called for in the Town of Warner Personnel Policies for:

\_\_\_\_\_  
\_\_\_\_\_

Which is/are violations(s) of the following rules and regulations:

\_\_\_\_\_  
\_\_\_\_\_

You are expected to improve your compliance with these rules and regulations forthwith.

Any further violations may result in further, and possibly more severe, disciplinary action that may include, but may not be limited to, suspension and/or discharge.

\_\_\_\_\_  
*Supervisor's Signature*

I acknowledge receipt of the above. I certify that it was discussed with me. I do not necessarily agree with the above.

\_\_\_\_\_  
*Employee's Signature*

\_\_\_\_\_  
*Date*

**NOTICE OF SUSPENSION** *(example of style which may be used)*

To: \_\_\_\_\_

From: \_\_\_\_\_

Date: \_\_\_\_\_

Subject: Notice of Suspension

You are hereby notified that your are suspended for \_\_\_\_\_ days with/without pay effective, \_\_\_\_\_.

This action is the result of your violation of

\_\_\_\_\_

\_\_\_\_\_

*(Cite section of rule/policy/procedure violated)*

in that you \_\_\_\_\_

\_\_\_\_\_

*(Cite specifics of violation to include date(s), time(s) actions(s))*

This behavior does not comply with the standards of performance expected of you as an employee of the Town of Warner.

\_\_\_\_\_

*(May wish to cite other warnings in here)*

\_\_\_\_\_

*Supervisor's Signature*

I hereby acknowledge receipt of the above. I certify that it was discussed with me.

\_\_\_\_\_  
*Employee's Signature*

\_\_\_\_\_  
*Date*

## **SECTION IX: GRIEVANCE PROCEDURE**

“Grievance” means an alleged violation, misinterpretation or misapplication, with respect to one or more employees, of any provision of these policies, rules and regulations. Any employee who believes that he/she has received inequitable treatment because of some condition of his/her employment may personally, or through his/her representative, appeal for relief from that condition through the following steps:

**Step One:** An employee is expected to discuss any grievance initially with his/her immediate supervisor within three (3) days of the alleged mistreatment.

**Step Two:** If the matter is not settled, the employee may submit a written grievance and relief sought to the department head no later than seven (7) days of the alleged mistreatment. The department head shall respond to the employee in writing within three (3) working days of receipt of the grievance.

**Step Three:** If the employee feels that the grievance has not been satisfactorily adjusted by the department head, a written grievance may be submitted to the Town Administrator within fourteen (14) days of the alleged mistreatment. The Town Administrator may conduct hearings, investigations and/or reviews necessary to determine the facts of the issue and recommend to the Board of Selectman for final decision. The Board of Selectman will write its’ finding(s) no later than twenty-one (21) days of the alleged mistreatment. The decision of the Board of Selectmen will be final.

Any grievance should be settled at the lowest possible level. This should not be construed to in any way restrict the rights of employees under these personnel rules and regulations.

## **SECTION X: SEPARATION FROM EMPLOYMENT**

### **MISCONDUCT**

An employee may be terminated from employment with the Town for misconduct in connection with his/her work as provided in SECTION VIII, Discipline Procedures. Employees terminated for misconduct may forfeit severance benefits, as they will not have separated in good standing.

### **WITHOUT FAULT**

An employee may be terminated through no fault of their own when it is determined that the employee is unsuited for or incapable of performing the work assigned.

### **RESIGNATION**

Voluntary separation occurs when the separation is employee initiated by:

- A written resignation or;
- Failure to appear or call for three consecutive scheduled working days or;
- Failure to return from an approved leave of absence upon conclusion of the leave or;
- Failure to report for work upon recall from a layoff or reduction-in-force or;
- Retirement

## **LAYOFFS/REDUCTIONS-IN-FORCE**

A layoff is the discontinuance of employment for any period of time when no work is available, no funds are available or other legitimate reasons.

The normal sequence of layoff shall be seasonal, temporary, part-time then full-time employees. All employees shall be furnished a statement in writing setting forth the reasons for the layoff at least 14 days prior to the layoff.

## **RECALL**

Recall from layoff will be made of all qualified regular employees for one year from the date of the layoff before employment of others. Persons who are laid off in good standing shall, provided that their qualifications are equal to the qualifications of other applicants, be given preference for reemployment.

## **SECTION XI: SAFETY AND HEALTH**

The Town values the health, welfare and safety of every employee and intends to provide a safe and healthful workplace and has a Safety Program which addresses various areas. A copy of the Safety Program is given to each employee upon hiring and incorporated by reference into this personnel policy. Additional copies are available upon request.

Employees of the Town have a responsibility to themselves, their families, their co-workers, and the community to understand and follow the safety program. Employees must be alert in detecting and taking steps to remedy potentially hazardous conditions. Above all, employees must be concerned for others to help ensure everyone's safety, well-being, and productivity.

### **JOINT LOSS MANAGEMENT PROGRAM (JLMP)**

Every employee has the right to a workplace free from occupational safety and health hazards. A Joint Loss Management Program is designed to prevent accidents and illnesses, and is established jointly between employees and management as required by RSA 281-A:64 III. Unsafe acts, unsafe conditions and accidents all demonstrate a weakness in the management system. The JLMP provides the framework for safety to be managed like any other function through planning, organization, leadership, and control. It is an established fact that a well-trained, well-disciplined and well-supervised employee in a safe and healthful environment is less likely to have an accident. The JLMP is outlined in the Town's Safety Program.

### **PENALTIES**

Failure to comply with mandatory requirements for wearing safety apparel and or using safety equipment will result in disciplinary action.

## **PHYSICAL EXAMINATIONS**

To insure that employees remain healthy and able to work, the Town may require that certain personnel undergo a physical examination at the Town's expense by a provider of the Town's choice. Employees should refer to individual department policies regarding designation and scheduling.

## **SMOKING**

As a result of the overwhelming evidence that smoking is dangerous and injurious to a person's health, the Town has banned smoking indoors in the workplace and Town vehicles, except in specifically designated areas and during rest periods and employee meal times. Smoking is not permitted in the presence of the public while engaged in Town business with the public.

In addition, passengers in vehicles operated by Town employees and/or staff while on Town business are required to wear seat belts. This requirement shall not apply in the case of vehicles in which the manufacturer has not installed seat belts. All Town employees are forbidden from disengaging or otherwise disarming automatic seat belt systems or alarms. Employees found violating this policy may be subject to discipline up to and including discharge.

## **DRUG/ALCOHOL ABUSE**

Employees of Town should not possess, use, or sell non-prescription drugs or alcoholic beverages while on Town business. Possession shall include, but not be limited to, concealment or storage in a locker, bag, automobile, or other place accessible to the employee during working hours.

Employees should not report to work or attempt to work while under the influence on non-prescribed drugs or alcoholic beverages.

Employees should not report to work or attempt to work while suffering from the effects of exceeding the prescribed or directed usage or otherwise abusing prescription or over-the-counter drugs or medications.

Failure to comply with these rules shall lead to disciplinary action that may include, but not be limited to, suspension, demotion, or discharge. Employees holding a Commercial Drivers License (CDL) are further regulated by a separate Policy and Procedure for Drug and Alcohol testing.

## **POLICY AND PROCEDURES FOR DRUG AND ALCOHOL TESTING**

**Who must be tested:** Effective January 1, 1996 Town employees holding a Commercial Drivers License (CDL) and operate Commercial Motor Vehicles (CMV), will be subject to alcohol and controlled substances testing pursuant to U.S. – Department of Transportation regulations. For the purpose of these requirements, a Commercial Vehicle is defined as:

- Vehicle with a gross weight of 26,001+ pounds
- Any size passenger vehicle designed to transport 16+ passengers including driver, and
- Any size vehicle transporting hazardous materials requiring placarding

These rules apply to drivers operating CMVs both interstate and intrastate.

**Alcohol:** Alcohol means the intoxication agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

No driver shall report for work, remain at work, or possess alcohol during the performance of safety-sensitive functions (SSF) with an alcohol concentration in excess of 0.02. No driver shall refuse to submit to a required alcohol test.

The method of testing for alcohol under D.O.T. regulations is by breath and/or saliva. Only devices approved by the National Highway Traffic Safety Administration (NHTSA), which are on the Conforming Products List (CPL) shall be utilized for alcohol testing. Only trained Breath Alcohol Technicians (BAT's) or Screen Test Technicians (STT's) will be allowed to administer a breath or saliva alcohol test.

**Controlled Substances:** Regulations require testing for the following classes of controlled substances:

- Cannabinoids (Marijuana, hashish, grass, pot, hash oil, marinol, dronabinol)
- Cocaine (Coca leaves, crack, free base, snow, flake, blow)
- Opiates (Opium and codeine derivatives-heroin, smack, junk, china white)
- Amphetamines (Amphetamines and methamphetamines-stimulants, speed, crystal, crank, uppers, bennies, dexies, etc.)
- Phencyclidine (PCP – angel dust, dusters, hallucinogens)

**Tests Required:** Controlled substance testing is required for CDL drivers in the following circumstances:

- Pre-employment: This test applies to CDL driver applicants. The Supervisor must have drug test results before drivers perform safety-sensitive functions. No pre-employment alcohol testing is required.
- Random: Unannounced testing of CDL drivers based on a random selection of drivers. Names are chosen by lottery from a list of all drivers in the pool. Drivers notified of selection must immediately submit to testing when performing SSF. This process ensures that all drivers have an equal chance of being selected at any time. The selection program should be developed to select CDL drivers, spreading the selection over a 12 month period with a 50 percent annual sample rate for all eligible drivers. Random alcohol testing should be conducted at an annualized rate of 25 percent.
- Post – Accident: This test applies to CDL drivers cited for a moving violation arising from a reportable accident where a vehicle is towed or when a fatality occurs. The drug test must be administered as soon as possible but within 32 hours of the accident. Alcohol testing must be conducted as soon as possible but not later than 8 hours after an accident. The Supervisor must document failure to comply with time constraints.
- Reasonable Suspicion: This test applies when a trained supervisor or municipal officer observes a driver acting in a manner which indicates use of alcohol or controlled substances. The supervisor must prepare and sign a statement documenting the observation within 24 hours. Testing should be coordinated as soon as possible following the reasonable suspicion determination and the driver should be provided with transportation to/from the testing site.



- **Return-to-Work:** Should a driver test positive, before returning to work for the Town, the driver must submit to and pass a return-to-work alcohol and/or controlled substance test; the expense paid by the driver.
- **Follow-up:** After the driver has passed a return-to-work test, the driver is subject to follow-up random testing at a minimum of 6 tests in the first twelve months upon returning to work; the expense for testing to be paid by the driver. This testing is in addition to the normal random testing.

**Testing Procedures:** Mandatory testing procedures are based on those established by the U.S. Department of Health and Human Services. These procedures include: dual urine sample collection, laboratory procedures, alcohol test procedures, and reporting of results and confidential recordkeeping of final test results and statistical data. Only laboratories certified by the Substance Abuse Mental Health Services Administration (SAMHSA) may be used. These procedures exist to safeguard accuracy and to protect the privacy of drivers.

It is critical that drivers participate honestly in the process. A driver who refuses to submit to testing is considered “unqualified to drive” and his/her employment terminated.

A driver who has tested positive for any of the substances will be notified and may discuss the positive test results with a qualified Medical Review Officer (MRO). The driver will be given an opportunity to explain any special circumstances to the MRO. The MRO has the authority and responsibility for reporting the results to the Town’s drug program management for action within three days.

All drivers who have been determined to be positive by the MRO may be referred to a Substance Abuse Professional (SAP) for counseling if their employment is to be continued.

In addition to testing procedures, DOT requires that supervisors and management officials undergo training on the subject of the use and abuse of alcohol and controlled substances.

**Consequences:** A driver will be deemed “unqualified” and removed from SSF if:

- The driver tests positive
  - The driver refuses to submit to a test
  - The driver possesses prohibited substances while at work
- (Note: All are grounds for termination of Employment)**

In all cases of a positive test, the driver is medically not qualified until such time as the driver tests negative for alcohol or controlled substances and is medically recertified. The Town will not allow an employee to drive any town vehicle until they successfully complete the requirements once they have failed a test.

A driver who refuses to submit to an alcohol or controlled substances test following a fatal accident will be “disqualified” from driving a CMV for one year. His/her employment with the Town will be terminated. Drivers who subvert testing by intentionally providing false or inadequate breath and urine samples, or their conduct clearly obstructs the testing process, will have their employment terminated.

**Additional Features:** The Supervisor of the Town's CDL drivers will insure that:

- All drivers read the Town's policy and procedures regarding alcohol and drug testing signifying their understanding by signing and dating the master copy. Each driver will thereafter review and sign the document annually.
- When randomly selected, drivers will proceed to the Test site immediately.
- Reasonable Suspicion Testing will be based on actions relating to behavior, speech, body odors, etc. and documented within 24 hours.
- Drivers not perform SSF after alcohol concentration of  $>0.04$ , while using alcohol, within 4 hours after using alcohol, within 8 hours following an accident (or until tested) and refusal to submit to a required test.
- Drivers not refuse to submit to testing for:
  - Post Accident
  - Random
  - Reasonable suspicion
  - Follow-up
- Drivers not take prescription drugs unless prescribed by a physician who advises the driver that the drug will not affect safely operating a CMV
- Driver inform their Supervisor of any therapeutic drug or substances that would effect the safe operation of a motor vehicle.
- Drivers not consume an intoxicating beverage, regardless of its alcohol content, or be under the influence, within 4 hours before work.
- That drivers not be coerced by management into performing safety-sensitive functions which would cause them to violate regulations.

**Types of Records:** Data will be compiled by the Supervisor for Quarterly and Annual reporting purpose for:

- Collection process
- Driver's test results
- Violations
- Evaluations by Substance Abuse Professional (SAP)
- Education and Training
- Drug testing

**Reports:** Selectmen will produce Quarterly and Annual summaries of Alcohol and Controlled Substance Testing as required by outside agencies.

**Records Access:** Records within previous two years must be made available to subsequent employer upon written request from driver for:

- Possible alcohol  $>0.04$
- Positive drug test; and
- Refusals to test

This information must be provided within 14 days and the data must be controlled and treated as confidential.

**Training:** The Town will provide to all CDL operators education materials and training to insure their understanding of the Town's Policy and Procedures for Drug and Alcohol Testing.

REASONABLE SUSPICION  
TESTING REPORT

Employee  
Name: \_\_\_\_\_ Date: \_\_\_\_\_

Department: \_\_\_\_\_ Job Title: \_\_\_\_\_

Time: \_\_\_\_\_ a.m./ p.m. Location: \_\_\_\_\_

---

**Reason(s) For Suspicion (Check all that apply):**

- |                            |   |  |   |
|----------------------------|---|--|---|
| <b>Breath:</b>             | <input type="checkbox"/> Odor of Alcohol                      | <input type="checkbox"/> Odor of Drugs |   |
| <b>Clothing:</b>           | <input type="checkbox"/> Odor of Alcohol                      | <input type="checkbox"/> Odor of Drugs |   |
| <b>Color of Face:</b>      | <input type="checkbox"/> Pale                                 | <input type="checkbox"/> Flushed       | <input type="checkbox"/> Other              |
| <b>Eyes:</b>               | <input type="checkbox"/> Bloodshot                            | <input type="checkbox"/> Watery        | <input type="checkbox"/> Glassy             |
| <b>Pupils:</b>             | <input type="checkbox"/> Contracted                           | <input type="checkbox"/> Dilated       | <input type="checkbox"/> Not Equal Size     |
| <b>Speech:</b>             | <input type="checkbox"/> Confused                             | <input type="checkbox"/> Mumbled       | <input type="checkbox"/> Mush Mouthed       |
|                            | <input type="checkbox"/> Slurred                              | <input type="checkbox"/> Thick Tongued | <input type="checkbox"/> Not Understandable |
| <b>Unusual Actions:</b>    | <input type="checkbox"/> Belching                             | <input type="checkbox"/> Crying        | <input type="checkbox"/> Fighting           |
|                            | <input type="checkbox"/> Laughing                             | <input type="checkbox"/> Mood Swings   | <input type="checkbox"/> Vomiting           |
|                            | <input type="checkbox"/> Hiccoughing                          |  |   |
| <b>Observed Behaviors:</b> | <input type="checkbox"/> Carefree                             | <input type="checkbox"/> Cocky         | <input type="checkbox"/> Combative          |
|                            | <input type="checkbox"/> Excited                              | <input type="checkbox"/> Hilarious     | <input type="checkbox"/> Indifferent        |
|                            | <input type="checkbox"/> Insulting                            | <input type="checkbox"/> Sleepy        | <input type="checkbox"/> Talkative          |
| <b>Body Control:</b>       | <input type="checkbox"/> Repeatedly Tried to Perform Task (s) |  | <input type="checkbox"/> Staggering         |
|                            | <input type="checkbox"/> Unable to Control Bodily Functions   |  |   |

**Describe Other Reason(s) for Suspicion:** \_\_\_\_\_

\_\_\_\_\_  
**Witness(es):**

**Time Employee was Instructed to be Tested:** \_\_\_\_\_ a.m. / p.m.

Observing Supervisor: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

I have read and understand the Town of Warner's Personnel Policies, Rules & Regulations including the Policy and Regulations for drug and alcohol testing, if a CDL licensed driver, and agree to comply.

NAME

DATE

## **SECTION XII: SECURITY**

The security of the Town property and confidential information is the responsibility of every employee. The Town is constantly involved in issues that affect the property and reputations of its residents. We are constantly dealing in the formulation of policies that impact our residents. Therefore, legal and personnel issues, and the policy formulation process are confidential matters and must not be divulged without the approval of the Board of Selectmen.

Materials, equipment, tools, other personal or Town owned property, confidential literature, manuals or other documents of a sensitive nature shall not be removed without the prior written authorization of the employee's supervisor or department head.

The Town reserves the right within the Law and as a last resort, to inspect employee vehicles located on Town property, lockers, desks, storage areas, etc. for unauthorized possession of Town property, information, materials, or other contraband or illegal items.

No Town owned vehicles or equipment will be used for other than Town business unless authorized by the Board of Selectmen. Rates for outside use of Town vehicles and equipment will be by a fee schedule established by the Board of Selectmen. Violations of this policy will result in immediate and appropriate disciplinary action, up to, and including, discharge.

## **SECTION XIII: TRAINING AND DEVELOPMENT**

It is the policy of the Town to provide, at its discretion, reasonable financial assistance to employees interested in furthering their formal education, and enhancing or maintaining their skills.

The courses or programs that may be approved for reimbursement must be deemed to directly improve the employee's ability in his/her present position or increase his/her potential within the Town. The course or program must have the prior approval of department head or Town Administrator.

Employees who utilize this training are entitled to be paid for those hours as if at work.

To be eligible for reimbursement the employee must have been employed for at least six months, taken off probationary status, and must receive a passing grade or certificate of successful completion.

Employees who separate from the Town for any reason other than layoff, prior to completion of a course shall forfeit their rights to any reimbursement.

## **SECTION XIV: MISCELLANEOUS**

### **CHAIN OF COMMAND**

It is expected and required that all employees will follow the levels of authority, sometimes referred to as the chain of command, in reporting grievances, problems, violations of laws, policies and procedures. This line of reporting is spelled out in the Grievance Procedure in SECTION X.

The only exception to this policy will be for reports of sexual harassment. However, no retaliatory action shall be taken against any employee who reports violations of Federal and/or State laws to a regulatory authority pursuant to the provisions of the State "Whistle Blowers Law."

## **COMPUTER USE AND COMMUNICATIONS EQUIPMENT POLICY**

The Town provides communication tools including computers, fax machines, telephones, voice mail, email, and access to the Internet to help with the employee's job. This policy is designated to help the employee understand the Town's expectations for the use of these resources and to help use these resources wisely.

All employees should be aware that the Town has the right, but not the duty, to monitor the computer, network, fax, voice mail, email, and Internet use of all employees. For this reason, employees should not have any expectation of privacy in their use of Town computers or other communications equipment, including email and voice mail systems. The Town reserves the right to suspend individual user accounts for violation of this policy and to take disciplinary action up to and including termination of employment for the misuse of these resources or other violations of this policy.

The following guidelines apply to all employees:

- Employees should be aware that in addition to monitoring email messages sent and received on our system (including email messages sent and received from personal email accounts accessing from our system), we have the ability and the right to monitor such things as each Internet website visit, newsgroup discussions, chat room discussions, computer network use, and voice mail accounts. Computers and other communications equipment and the communications, information, and documents created on them are the property of the Town and may be monitored by the Town at anytime.
- Town computers and other communications equipment may not be used to violate any federal, state, or local laws or regulations. Use of any Town resources for illegal activity is grounds for immediate termination of employment, and the Town reserves the right to report the matter to law enforcement authorities. The Town will cooperate with any legitimate law enforcement investigation.
- The Town reserves the right to inspect any and all files stored on our computer network, including any files in private areas of the network, in order to assure compliance with this policy.
- The display or transmission of any sexually explicit image or document on any Town system is a violation of Town policy on sexual harassment. Town computers and other communications equipment may also not be used to transmit or display ethnic or racial slurs, or any other comment, message, or image that offensively addresses age, race, sex, sexual orientation, religion, national origin, disability, veteran status, or anything else that may be construed as harassing, discriminating, or disparaging of others. Transmission of harassing, discriminatory or otherwise objectionable email or files is strictly prohibited.
- Transmission of any religious or political messages is strictly prohibited.

- Access to obscene or offensive websites is strictly prohibited.
- Any personal use of our computers or other communications equipment for any commercial activity (other than Town business) is prohibited, as is the use of Town computers and communications equipment for anything that may not be in the best interest of the Town including, but not limited to, activities that disclose any confidential or proprietary information of the Town.
- Town computers and other communications equipment are to be for Town use only by authorized users. Non-employees may not use the Town computers, network, or other communications equipment for any reason.
- Use of another employee's account, user name, or password, or access to their personal files without their consent (by anyone other than authorized representatives of the IT department) is prohibited. Obtaining, or trying to obtain, other users' passwords or using programs that compromise security in any way is prohibited.
- All pass codes and passwords are the property of the Town. No employee may use a pass code, password, or voice mail access code that has not been issued to that employee by the Town or that is unknown to the Town. Users of the Town computers, network, and other communications equipment must take reasonable precautions to prevent unauthorized access to our systems. Passwords should not be divulged to unauthorized persons.
- Destruction, theft, alteration, or any form of sabotage of the Town's computers, programs, software, hardware, networks, websites, files, data, and other communications equipment and resources is prohibited and will be investigated and prosecuted to the fullest extent of the law.
- Any vulnerability in the Town's computers, network, or other communications equipment or resources should be reported immediately to the Town Administrator.
- Accessing the Town's files or any other files on the network or the system that the Employee did not create is prohibited unless he/she has prior authorization from the Town Administrator or the creator of the file.

## **ETHICS**

Employment with the Town carries with it a responsibility to be constantly aware of the importance of ethical conduct. Employees must refrain from taking part in, or exerting influence in, any transaction in which their own interests may conflict with the best interests of the Town. Each employee is individually responsible for adhering to this policy and for reporting violations to their supervisor or department head.

The Town recognizes and respects the individual employee's right to engage in activities outside of his/her employment which are private in nature and do not in any way conflict with or reflect poorly on the Town. The Town does reserve the right however, to determine when an employee's activity represents a conflict with the Town's interests and to take whatever action is necessary to resolve the situation including termination.

The list below includes but is not limited to types of activity that would reflect negatively on the employee's personal integrity or that would limit his/her ability to discharge their job duties and responsibilities in an ethical manner:

- Simultaneous employment by another firm that is a supplier to or contractor with the Town.
- Conducting business with a firm in which the employee, or a close relative of the employee, has a substantial ownership or interest.
- Holding a substantial interest in, or participation in the management of, a firm from which the Town makes purchases.
- Borrowing money from individuals or vendors, other than recognized loan institutions, from which the Town buys services, materials, equipment, or supplies.
- Accepting gifts or entertainment from an outside organization, vendor, individual, or agency.
- Speculation or dealing in materials, equipment, supplies, services, or property purchased by the Town.

## **OUTSIDE EMPLOYMENT**

Employees working for other employers, including self-employment, are required to notify the Town immediately of their employment, their likely schedules and work location so that the Town may determine if there is any conflict with work performed for the Town or likely to raise conflict of interest issues for the Town.

An employee on an approved leave of absence, other than annual or military leave, who works for another employer during that leave, will be considered to have voluntarily resigned from Town employment.

## **SOLICITATION**

Unauthorized solicitations of employees on the premises are strictly prohibited at all times. This prohibition applies both to employees during working hours and to outsiders. Any such incident should be reported to the Board of Selectmen immediately.

In some instances, the collection of money for presents, flowers, parties, donations, or for cases of particular hardship can be considered appropriate. In these cases, prior approval of the supervisor or department head is required and all such solicitations shall be made during regularly scheduled breaks and lunch periods.

## **ACCESS TO PERSONNEL RECORDS**

In conformity with N.H. RSA 275:56, employees shall have a reasonable opportunity to inspect their personnel files and, upon request and by signing a release form, to obtain a copy of all or part of the file. The Employer reserves the right to charge a reasonable fee for the costs associated for all copies made at the employee's request.

If an employee disagrees with any information in the personnel file, and the Town refuses to remove or correct such information, the employee may submit a written statement explaining the disagreement together with evidence supporting the employee's version. Such statement shall be maintained as part

of the employee's personnel file and shall be included in any transmittal of the file to a third party and shall be included in any disclosure of the contested information made to a third party.

### **POLITICAL ACTIVITY**

Nothing in these rules is to be construed to prevent any employee from seeking out or continuing to be a member of a political organization or from attendance at a political meeting, or having freedom from interference in casting his/her vote.

Political activity of employees during normal business hours is prohibited.

### **SECTION XV: SEPARABILITY**

If any Article or Section of these policies, rules, and regulations should be held to be invalid by competent authority, the remainder shall not be affected thereby.

### **SECTION XVI: SUPERSESSION**

These policies, rules, and regulations shall take effect on the date established by the Board of Selectmen and shall supersede all previous policies, rules and regulations that may be in use on the effective date, unless specific exceptions are made by the Board of Selectmen to adopt amendments, additions, or deletions to these policies, rules, and regulations.

If there is any conflict between these rules and any Federal or State law, or other negotiated agreement, then these policies, rules, and regulations shall not apply to those specific areas covered by such law, or agreement.

### **SECTION XVII: AMENDMENT PROCEDURE**

These rules may be amended and changed from time to time as conditions require and as deemed appropriate by the Board of Selectmen and noticed to employees.