

TOWN OF WELLFLEET EMPLOYEE PERSONNEL MANUAL

INTRODUCTION

It is the responsibility of each employee to read the Manual and comply with all laws, policies and procedures set forth therein. This document is not an employment contract and **can be changed or amended by the Town at any time with or without notice, subject to any collective bargaining or written employment contract obligations.**

Employees shall abide by the Federal, State and Town laws and policies which apply to them during the course of their employment with the Town.

Any questions or concerns about the information provided in the Personnel Manual should be directed to the Office of Human Resources for further information or clarification.

Employment with the Town of Wellfleet is at will which means that either the employee or the Town can terminate the employment relationship at any time for any reason or for no reason at all, with or without notice, unless there is an applicable collective bargaining provision or other written contractual requirement.

The policies herein are current as of this printing. The Town reserves the right to change, modify, or amend all or part of any policy at any time. Selectmen's policies are identified specifically and should be checked for updates before reliance upon any version. The information on state and federal legislation which affects employee rights is a summary of the provisions of the current legislation and is subject to change by legislative action or court interpretation.

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I. GENERAL

1-2 Management Rights

All Town Departments and personnel shall be subject to related Federal, State, and Town laws. The Town reserves the right to modify or eliminate any or all of the policies, guidelines, practices, and benefits contained herein with or without notice, at any time. These policies, guidelines, and benefits are not intended to, and do not, constitute a contract between the Town and any of its employees. Other than employment pursuant to an approved written contract or a collective bargaining agreement with the Town to which an employee is subject, **all employment is on an at-will basis. The Town is free to terminate the employment relationship at any time with or without notice, without cause, for any reason or for no reason at all.**

If there are any differences between these policies and guidelines and the specific terms of any collective bargaining agreement or written employment contract, the specific terms of such shall govern.

1-3 Employee Rights and Non-discrimination

The Town of Wellfleet is an **equal opportunity employer**. Its policy is to hire and retain the best-qualified employees through the application of fair and equitable treatment of all applicants and employees. The Town aims through its human resources administration to assure the rights of all individuals to work and advance on the basis of merit, skill, ability, knowledge, education, and potential. Employee selection, evaluation, and advancement are based upon law and these principles without regard to race, color, gender, gender identity, religion, national origin, ancestry, age, disability, sexual orientation, parental leave, genetic information, active military status, or any other status protected by Federal, Commonwealth, or local law.

1-4 Definitions

Regular Full-Time Employees: work a full department schedule on a regular basis in a regular position. These employees are entitled to take advantage of the full range of benefits as specified.

Regular Part-Time Employees: a minimum of twenty (20) hours per week on a regular basis. These employees are entitled to take advantage of the full range of benefits (with the exception of personal days) on a prorated basis.

Limited Part-Time Employees: less than twenty (20) hours per week on a regular basis in a regular position. These employees are eligible for a limited number of benefits, beyond those required by law.

Intermittent, Temporary and Seasonal Employees: carry out work and projects that are limited in nature or duration not to exceed six months without Town Administrator approval. These employees are not entitled to benefits beyond those required by law and their employment is not considered in calculation of longevity.

Continuous Service: the measure of an employee's uninterrupted employment with the Town. An employee's service record will not be broken by the following circumstances: (1) required military leave of absence and (2) authorized holidays, vacations, sick leave, authorized leaves of absence, and excused absence from work for less than one week. The Town Administrator approves decisions regarding continuity of service and employees should seek advanced approval.

Probationary Period: the first twelve months of employment commencing on the date of hire, except when otherwise governed by a relevant collective bargaining agreement. During probationary period, employees are not eligible for paid sick leave, vacations, or educational reimbursement. Upon successful completion of the probationary period, employees become eligible for sick leave, paid vacation time and educational reimbursement.

Child: a son or daughter who is the biological, adopted, foster, stepchild, legal ward or one for whom the employee stands in loco parentis who is (1) under 18 years of age or (2) 18 years of age or older and incapable of self-care due to mental or physical disability.

Spouse: a husband or wife or legally married partner.

Parent: the biological or adoptive parent of an employee or an individual who stands in loco parentis to an employee.

Health Care Provider:

1. A licensed doctor of medicine or osteopathy;
2. A licensed podiatrist, dentist, clinical psychologist, licensed social worker, optometrist, nurse practitioner, nurse midwife or Christian Scientist practitioner; or
3. A licensed chiropractor that is limited to the treatment of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist.

Serious Health Condition: any illness, injury, impairment or physical or mental condition that involves: (1) any period of incapacity or treatment connected with inpatient care, (2) any period of incapacity requiring absence of more than three calendar days from work, school or other regular daily activities that also involve continuing treatment by a health care provider, or (3) continuing treatment by a health care provider for a chronic or long term health condition that is incurable or so serious that if not treated would result in a period of incapacity of more than three calendar days and for prenatal care.

II. EMPLOYMENT IN THE PUBLIC TRUST

2-1 Code of Conduct (see also section 2-8 Open Meeting Law and Conflicts of Interest)

The Town of Wellfleet strives to create and maintain a positive work environment. The Town stresses courteous and respectful behavior towards work colleagues and customers.

To maintain the confidence of the public, all Town of Wellfleet employees shall conduct business in an honest and ethical manner, reflecting such values as integrity, trustworthiness, safety, and excellence in customer relations and service.

The following standards outline general principles on which employees are expected to base their behavior. The examples are merely illustrative and not meant to be all-inclusive.

- Conducting business in a manner that is consistent with Town of Wellfleet policies and procedures and with State and Federal laws that apply to municipal employees.
- Conducting business in a manner that is consistent with the public trust and the proper performance of one's duties, including maintaining appropriate confidentiality and refraining from engaging in outside activities that would impair one's independence of judgment or create a conflict of interest with one's employment status.
- Employees must not use privileged information for their own financial advantage or to provide friends or acquaintances with financial advantage (see Chapter 268A, Massachusetts General Laws).
- The Town of Wellfleet has contact with many organizations including State, County, and Federal governments, private businesses, and citizens. In many cases the Town handles issues that are of a confidential and sensitive nature. Employees must be cautious not to disclose confidential information, which could lead to legal and financial repercussions for the Town, poor public relations, and/or poor employee morale.
- Refraining from the use of Town of Wellfleet time, materials, equipment, or other assets in connection with outside activities.

Outside Employment and Business Activity

Town employees hold positions of public trust. Their primary employment responsibility is to the Town of Wellfleet; however, it is recognized that employees may have an interest in engaging in outside employment. The public nature of the positions of the Town of Wellfleet necessitates the following restrictions:

1. Outside employment or business activity must not violate any law or Town of Wellfleet policy.
2. Outside employment or business activity must not result in any conduct which creates a conflict of interest, or the appearance of a conflict of interest.
3. Outside employment or business activity must not result in the use, dissemination or disclosure to others of confidential information obtained by reason of his/her employment with the Town of Wellfleet.
4. Outside employment or business activity must not potentially subject the Town of Wellfleet to public criticism or embarrassment.
5. A Town employee shall not engage in outside employment or business activity during scheduled work hours for the Town of Wellfleet unless using approved vacation, personal, or compensatory time.

6. A Town employee shall not engage in outside employment that interferes with the employee's availability, capacity or effective performance of duties as an employee of the Town of Wellfleet.

Civility/Respect in the Workplace

A workplace that is conducive to excellence is one in which there is mutual respect for all contributors. Everyone in the Town's employ should demonstrate respect through common courtesy and civility, and expect to be treated in the same way in return. This atmosphere of mutual respect enables all Town employees to share ideas and is crucial to success. The following Policy documents this fundamental expectation of how individuals in the Town's employ should interact with each other.

Policy

The Town is committed to providing a work environment that promotes excellence and productivity through work relationships based on courtesy, civility, and respectful communication. This commitment means:

- 1) All Town employees have an important contribution to make toward the overall success of the Town.
- 2) The Town's work is best carried out in an atmosphere in which Town employees value each other and treat each other with respect even in urgent, disagreeable, and high-pressure situations.
- 3) Town employees in positions of authority should promote such an atmosphere while continuing to hold employees accountable for effective and appropriate work performance.

2-2 Equal Opportunity, Discrimination and Sexual Harassment Policy

(BOARD OF SELECTMEN Sexual Harassment Policy of the Town of Wellfleet Original Date: 1/28/91 1991-1a SEXUAL HARASSMENT POLICY OF THE TOWN OF WELLFLEET

Revised: 1/3/97 Reaffirmed: 3/2/98 Revised: 10/4/99 Revised: 7/23/01 Revised: 5/10/05 Revised: 1/27/09 Revised 11/24/15, current as of the date of this manual's publication)

As part of the Town of Wellfleet's continuing Affirmative Action Efforts, The Board of Selectmen hereby establishes the following revision for all town employees. This revision is in accordance with the Commonwealth of Massachusetts Commission against Discrimination's Policy 96-2 voted by the MCAD on October 25, 1996.

2-2.A. Introduction

It is the goal of the Town of Wellfleet to promote a professional and productive workplace in which all employees are treated with dignity and respect. Employees are expected to act in a positive manner and contribute to a productive work environment that is free from harassing or disruptive activity. Discrimination, including harassment, whether based upon race, color, gender, gender identity, national origin, religion, ancestry, age, sexual orientation, disability, parental leave, genetic information, active military status, criminal record (inquiries only) or other bases prohibited under state or federal anti-discrimination statutes, will not be tolerated. 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 this organization. Further, any retaliation against an individual who has complained about discrimination, sexual harassment or retaliation against individuals for cooperating with an investigation of a discrimination or sexual harassment complaint is similarly unlawful and will not be tolerated. To achieve our goal of providing a workplace free from discrimination, sexual harassment, or retaliation the conduct that is described in this policy will not be tolerated and we have provided a procedure with which inappropriate conduct will be dealt, if encountered by employees.

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

Please note that while this policy sets forth our goal of promoting a workplace that is free from discrimination and sexual harassment, the policy is not designed or intended to limit our authority to discipline or pursue remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment.

Any employee who believes he or she has been the subject of discrimination or sexual harassment of any kind should report the alleged discrimination or sexual harassment immediately to his/her department head or supervisor, or to the Town Administrator or Assistant Town Administrator. An investigation of all complaints will be undertaken immediately under the direction of the Office of the Town Administrator. Any employee who, following appropriate investigation has been found to have discriminated against or sexually harassed another employee shall be subject to appropriate sanctions depending on the circumstances, up to and including termination.

This policy may apply to conduct that occurs between co-workers that takes place outside the workplace (including, but not limited to, online conduct or conduct utilizing the internet or other electronic media), or during non-work hours. When the conduct complained of occurs outside the workplace or during non-work hours, the Town may consider the following and other factors in assessing whether the conduct constitutes conduct in violation of this policy:

- whether the event at which the conduct occurred is linked to the workplace in any way, such as at a Town-sponsored function;
- whether the conduct occurred during work hours;
- the context of conduct that occurs outside of normal work hours and whether there is any connection to the workplace;
- the severity of the alleged outside-of-work conduct;
- the work relationship of the complainant and alleged harasser, which includes whether the alleged harasser is a supervisor and whether the alleged harasser and complainant come into contact with one another on the job;

- whether the conduct adversely affected the terms and conditions of complainant’s employment or impacted the complainant’s work environment.

All employees should take special note that retaliation against an individual who has complained about discrimination or sexual harassment, or against individuals for cooperating with an investigation of a discrimination or sexual harassment complaint is unlawful and will not be tolerated by this organization.

2-2.B. Definition of Prohibited Discriminatory Behavior

It is not possible to list all circumstances that may constitute discrimination in violation of this Policy. Discrimination may take many forms, including both verbal and nonverbal behaviors. Prohibited behavior includes, but is not limited to, the following behaviors connected to someone’s membership in one or more groups protected by law as noted above: slurs or other derogatory comments; sharing demeaning pictures, cartoons, or jokes; demeaning gestures, and; any conduct constituting sexual harassment.

2-2.C. Definition of Sexual Harassment

In Massachusetts, the legal definition for sexual harassment is this: Sexual harassment means sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- (a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or a basis for employment decisions; or,
- (b) such advances, requests, or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating, or sexually offensive work environment.

Hostile Work Environment – A form of sexual harassment, where pervasive and sexually hostile working conditions unreasonably interfere with an employee’s ability to do his or her job.

Quid Pro Quo – Another form of sexual harassment where tangible job benefits are offered or withheld in exchange for sexual favors.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct which, if unwelcome, may constitute sexual harassment, depending on the totality of the circumstances including the severity of the conduct and its pervasiveness.

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

- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Discussion of one's sexual activities.

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

The legal definition of sexual harassment is broad and, in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to male or female workers may also constitute sexual harassment.

2-2.D. Procedures

1. Complaints of Discrimination, Sexual Harassment or Retaliation

If an employee believes that he or she has been subjected to sexual harassment, discriminatory behavior or retaliation, it is the Town's policy to provide the employee with the right to file an internal complaint. This may be done orally or in writing.

An employee may file a complaint of discrimination, sexual harassment or retaliation by contacting his or her department head or supervisor or alternatively the Town Administrator or Assistant Town Administrator. These persons will remain available to discuss any concerns employees may have and to provide information about the Town's policy on discrimination, sexual harassment or retaliation and the complaint process.

2. Discrimination, Sexual Harassment and/or Retaliation Investigation

When a complaint of discrimination, sexual harassment or retaliation is received, the Town will promptly investigate the allegation in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. The Town's investigation will include a private interview with the person filing the complaint and with any witnesses. The Town will also interview the person alleged to have committed the discrimination, sexual harassment or retaliatory behavior. When the investigation has concluded, the Town will, to the extent appropriate inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

If it is determined that inappropriate conduct has occurred, the Town will act promptly to eliminate the offending conduct, and where appropriate, impose disciplinary action.

2-2.E. Sanctions

If it is determined that inappropriate conduct has been committed by an employee, the Town will take such action as is appropriate under the circumstances. Such actions may

include: counseling, information or formal reprimands, written or verbal warnings, suspension, reduction in pay, reduction in duties, transfers, and other formal sanctions, including termination from employment.

2-2.F. State and Federal Remedies

In addition to the above, if any employee believes he or she has been subjected to discrimination, sexual harassment or retaliation, he or she may file a formal complaint with either or both of the governmental agencies listed below. Using the Town’s complaint process does not prohibit an employee from filing a complaint with either of these agencies. Please note that both agencies have short time periods for filing a claim (300 days)

1. The United States Equal Employment Opportunity Commission (EEOC)

John F. Kennedy Federal Building
475 Government Center
Boston, MA 02203
Phone: (800) 669-4000
TTY: (800) 669-6820

2. The Massachusetts Commission Against Discrimination

Boston Office

One Ashburton Place
Sixth Floor, Room 601
Boston, MA 02108
(617) 994-6000
TTY: (617) 994-6196

New Bedford Office

800 Purchase Street, Rm. 501
New Bedford, MA 02740
(508) 990-2390
Fax: (508) 990-4260

EQUAL EMPLOYMENT OPPORTUNITY, DISCRIMINATION, AND SEXUAL HARASSMENT POLICY

This acknowledges that I have received and reviewed the Town of Wellfleet’s Equal Employment Opportunity, Discrimination, and Sexual Harassment Policy (“Policy”). By signing this form, I agree to abide by the Policy and any Guidelines promulgated thereunder, and I agree to review periodically any changes or modifications. I recognize that the law and associated Policy regarding Equal Employment Opportunity, Discrimination and Sexual Harassment are continually evolving. Therefore, I understand that my regular review of this Policy, as it may be amended, is required.

Print Name: _____

Signature: _____

Date: _____

To be included in employee's personnel file.

2-3 Workplace Safety

The health and safety of its employees is a primary concern of the Town of Wellfleet. Town employees are urged to use their common sense and good judgment at all times to avoid accidents as well as to use appropriate safety equipment. Each employee must immediately report any condition which he/she believes could cause injury to the department head/supervisor. If a Town employee is injured in a work-related accident, the employee's injuries may be covered by Workers' Compensation. To remain eligible to obtain such compensation, any injured Town employee must report such an incident to his/her department head/supervisor immediately.

The Town intends to maintain safe working conditions for its employees and to inform its employees of existing safety policies and practices in accordance with relevant Commonwealth and Federal laws. Information concerning employee health and safety is posted in Town workplaces on posters.

Current Federal Occupational Health and Safety Administration (OSHA) authority does not cover the Town as a workplace. Municipal and county employee health and safety is covered in a general fashion by the Massachusetts Division of Occupational Safety (DOS) under authority derived from Massachusetts General Law Chapter 149, Section 6. All Massachusetts public sector employees are also covered by the Massachusetts Right to Know Law (MGL Chapter 111F) and the DOS Right to Know regulations (454 Code of Massachusetts Regulations 21.00).

The Right to Know Law gives employees certain rights regarding information on toxic and hazardous substances. These rights include a notice posted in the workplace informing employees of their rights under this law, annual training for employees who work with toxic or hazardous substances, and the ability for employees to obtain and examine Material Safety Data Sheets (MSDS) for any toxic or hazardous substances to which employees are, may be, or have been exposed.

With the exception of the Right to Know Law, there are no specific standards for Town employee health and safety. In the absence of specific standards, it is the policy of DOS that the Town should follow applicable OSHA standards.

2-4 Workplace Violence Policy

(BOARD OF SELECTMEN Policy Against Workplace Violence Original Date: January 27, 2009 2009-1, current as of the date of this manual's publication)

Purpose

The Town of Wellfleet believes that all employees are entitled to a nonthreatening workplace where the basic safety of each employee is promoted. The Town of Wellfleet is committed to maintaining a safe workplace environment.

Prohibited Conduct

Any employee who threatens or engages in violence, displays intimidating behavior, harasses others, or who violates rules regarding dangerous objects in the workplace, is in violation of this policy. Therefore, any form of violence will not be tolerated. This includes, but is not limited to:

- Threatening, hostile, harassing or intimidating behavior;
- Possession of weapon(s) in the workplace including but not limited to: gun, knife, explosive device, club, etc. (excluding weapons carried by authorized public safety officers);
- Violations of restraining orders;
- Fighting and roughhousing;
- Verbal abuse;
- Stalking.

An employee who believes he or she has been subjected to threats, intimidation, harassment, or violence in the workplace by a fellow employee, customer, or other person should report such conduct to the individual(s) specified below in the “Complaint Procedure.” Complaints will be investigated promptly. The matter will be addressed by and among only such persons with a need to know. Any employee who violates this policy will be subject to serious disciplinary action, up to and including discharge.

Harassment

Harassment is defined as conduct which has the purpose or effect of unreasonably interfering with an individual’s ability to perform the job or creating an intimidating, hostile, or offensive working environment.

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 this organization. Further, any retaliation against an individual who has complained about harassment or retaliation against individuals for cooperating with an investigation of a harassment complaint is similarly unlawful and will not be tolerated. To achieve our goal of providing a workplace free from harassment, the conduct that is described in this policy will not be tolerated and we have provided a procedure with which inappropriate conduct will be dealt, if encountered by employees.

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

Please note that while this policy sets forth our goals of promoting a workplace that is free of harassment, the policy is not designed or intended to limit our authority to discipline or pursue remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of harassment or sexual harassment.

Any employee who believes he or she has been the subject of harassment of any kind should report the alleged harassment immediately to his/her department head or supervisor, or to the Town Administrator or Assistant Town Administrator. An investigation of all complaints will be undertaken immediately under the direction of the Office of the Town Administrator. Any employee who, following appropriate investigation has been found to have harassed another employee shall be subject to appropriate sanctions depending on the circumstances, up to and including termination.

Officers, Managers and Supervisors – Management Responsibility

Violence, or the threat of violence, whether committed by supervisory or nonsupervisory personnel, is against stated Town of Wellfleet policy and may be considered unlawful as well. In addition, management is responsible for taking action against threats or acts of violence by Town of Wellfleet personnel or directed toward them by others at the workplace, regardless of the manner in which the Town of Wellfleet becomes aware of the conduct.

All complaints will be treated seriously and investigated accordingly. It is management's responsibility to show employees that the Town of Wellfleet is serious about prohibiting, preventing, and remedying incidents of violence in the workplace. If a supervisor becomes aware of any action, behavior, or perceived threat that may violate this policy, he or she is responsible for immediately contacting the Town Administrator or Chief of Police.

Reporting and Investigation of a Complaint

Any employee who believes he or she has been the subject of harassment should report the alleged harassment immediately to his/her department head or supervisor, and/or to the Town Administrator or Assistant Town Administrator. This may be done in writing or orally.

An investigation of all complaints will be undertaken immediately under the direction of the Office of the Town Administrator in a fair and expeditious manner.

The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. The investigation will include a private interview with the person filing the complaint and with witnesses.

The Town also will interview the person(s) alleged to have committed harassment. When the Town has completed its investigation, to the extent appropriate it will inform the person filing the complaint and the person(s) alleged to have committed the conduct, of the results of that investigation.

Disciplinary Action

If it is determined that inappropriate conduct has been committed by one or more of our employees, the Town will take such action as is appropriate under the circumstances. Such action may range from counseling to termination from employment, and may include such other forms of disciplinary action as we deem appropriate under the circumstances.

Complaint Procedure

Complaints of violence or of intimidating behavior should be brought to the attention of the Town Administrator or the Chief of Police. After notification of a complaint or when receipt of knowledge of a situation involving a possible threat of violence exists, either the Town Administrator or Chief of Police will undertake a thorough investigation to gather all pertinent facts.

Non-Retaliation

This policy prohibits retaliation against any employee who brings complaints of violence or of intimidating behavior, or who helps in investigating complaints, unless the factual basis of the complaint is found to be intentionally fabricated. The employee will not be adversely affected in terms and conditions of employment, nor discriminated against or discharged because of the complaint.

After the investigation has been completed, a determination will be made regarding the resolution of the complaint. If a violation of this policy is found, disciplinary action will be taken, up to and including termination of employment. In addition, there may be criminal proceedings independent of any disciplinary action.

Important Notes

1. If any employee believes he or she is the subject of harassment the individual must immediately contact his or her department head or immediate supervisor, or the Town Administrator or Assistant Town Administrator, and must consult and follow the Town's Workplace Violence complaint procedure guidelines.
2. The procedures outlined above will also apply to the alleged harassment by non-employees and of non-employees, provided the incident(s) occur within the workplace and within the jurisdiction of the harassment complaint procedures.

2-5 Americans with Disability Policy

Policy Statement

It is unlawful to discriminate against qualified individuals on the basis of disability in any aspect of employment with the Town of Wellfleet.

The existence of this policy shall not represent a contract between any employee and the Town.

Policy Description

The Town provides an equal opportunity for individuals with disabilities to participate in all aspects of its employ. Under Title I of the Americans with Disabilities Act (the ADA), prohibiting discrimination in employment on the basis of disability, a qualified person with a disability is an individual with a disability who “satisfies the requisite skills, experience, education, and other job-related requirements for a job.” Under the ADA, “disability” is defined as a physical or mental impairment that substantially limits one or more major life activities. Temporary injuries, such as broken bones or sprains, usually do not qualify as an ADA disability.

It is the policy of the Town of Wellfleet to base its evaluations of job candidates upon the individual applicant’s qualifications to perform the essential functions of the particular job being considered. Under the ADA, the “essential functions” of a job are those tasks listed in the job posting and job description and are generally the tasks that comprise the majority of the time to be spent performing the job.

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

The Town will make reasonable accommodation to the known physical or mental limitations of a qualified applicant or employee with a disability unless such action would cause an undue hardship to the operations of the Town.

Reasonable Accommodation Procedures

1. The Town will provide reasonable accommodation to the known physical or mental limitations of a qualified applicant or employee unless such accommodation will impose undue hardship on the Town.
2. The Town will provide reasonable accommodation to ensure equal employment opportunity in the application process; to enable a qualified individual with a disability to perform the essential functions of the job; and to enable an employee with a disability to enjoy equal benefits and privileges of employment.
3. The Town need not provide reasonable accommodation for an individual who is otherwise not qualified for the position.
4. The duty to provide reasonable accommodation is ongoing and may arise any time that the employee's job changes.
5. It is the obligation of the individual with a disability to request the accommodation.

2-6 Drug-Free Work Place Policy

(BOARD OF SELECTMEN Drug Free Workplace Policy Original Date: January 28, 1991 1991-1b Reaffirmed: September 1, 1997 Reaffirmed: March 2, 1998 Reaffirmed: January 29, 2001 Reaffirmed: March 9, 2004, current as of the date of this manual's publication)

The Town of Wellfleet ("Town") recognizes and acknowledges that substance abuse, including the abuse of alcohol and controlled substances, is a serious and complex disease/condition which has a detrimental effect on the professional and personal lives of its employees, the Town, and the community. Because the Town is committed to being part of the solution to such problems in order to ensure the safety of the workplace, its employees, and the public, this policy is hereby established.

The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in all Town workplaces. The Town shall distribute to all employees drug awareness and education materials which employees must read and acknowledge. These materials describe the dangers of substance abuse, the statewide policy of a drug-free workplace, available substance abuse counseling, and rehabilitation and assistance programs. The Town shall distribute to all supervisors similar materials that shall include education specifically addressing the supervisors' role in maintaining a drug-free workplace. As a condition of employment, the terms of this policy must be adhered to, and the violation of this prohibition shall result in one or more of the following personnel actions, consistent with current contract employer/employee restrictions and limitations and applicable provisions of collective bargaining agreements:

- a) Mandatory participation and successful completion of an approved drug rehabilitation or assistance program;
- b) Unpaid leave of absence pending successful completion of a program described under (a) above;

c) Termination.

The severity of any personnel action shall be decided by the appropriate authorities in accordance with established personnel policies, any pertinent union contract and/or the Town of Wellfleet Charter. Any employee who violates these prohibitions will also risk legal prosecution. The Town will, from time to time, update, amplify and reinforce its policy set out above through the dissemination of drug education and awareness material and programs which may necessitate employees' attendance at lectures, seminars, or films.

2-7 Smoke-Free Work Place Policy

Purpose

It is now recognized that smoking is dangerous to the health of the smoker and that secondhand smoke is a cause of disease, including lung cancer, in healthy nonsmokers. The simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to environmental tobacco smoke. This applies to ALL smoking products; *i.e.*, cigarettes, cigars, and pipes. This policy has been developed to ensure a safe working environment for Town of Wellfleet employees.

Policy

Smoking is prohibited in ALL facilities and areas of the workplace with no exceptions. As defined by Massachusetts General Laws, Chapter 270 as amended by the Acts of 2004, "workplace" is defined as "an indoor area, structure or facility or a portion thereof, at which 1 or more employees perform a service for compensation for the employer, other enclosed spaces rented to or otherwise used by the public; and where the employer has the right or authority to exercise control over the space."

Smoking is not permitted anywhere in the Town of Wellfleet's municipal buildings, including common work areas, elevators, hallways, vehicles, restrooms, cafeterias, employee lounges, conference and meeting rooms and all other enclosed areas on Town property. This policy applies to all employees, citizens, clients, consultants, contractors, and visitors.

Procedure

1. Compliance with the smoke-free policy is mandatory for all employees and persons visiting the Town of Wellfleet's municipal buildings.
2. Any disputes involving Town employee smoking will be referred to the employee's immediate supervisor.
3. Town employees who violate this policy are subject to disciplinary action up to and including termination.
4. No person or employer shall discharge, refuse to hire, refuse to serve, or in any manner retaliate against any employee, applicant or customer because such employee, applicant, or customer takes any action in furtherance of the enforcement of this regulation or exercises any right conferred by this policy.

2-8 Open Meeting Law and Conflicts of Interest

On the first day of employment with the Town, a new Town employee shall be sworn to his/her faithful performance of duty and/or provided with the following documents by the Town Clerk.

Massachusetts General Laws Chapters 30A, Sections 18 through 25 are known generally as The Open Meeting Law. The Open Meeting Law describes the public notification requirements for holding meetings of Town boards and committees, defines a quorum and the procedures for holding meetings in executive session, and details the requirements for recording minutes of meetings. The complete text of the Open Meeting Law is found on the Massachusetts State House website through the Office of the Attorney General's Division of Open Government.

All persons serving on any "public body" must receive the Attorney General's version of the Open Meeting Law, regulations, and educational materials. The Town Clerk or his/her designee shall maintain written certifications of such receipt. Complaints concerning violations of the Open Meeting Law must be in writing and must be filed with the public body initially. The public body receiving the complaint must then submit a reply to the complaining party and the office of the Attorney General.

A summary of Massachusetts General Law Chapter 268A, the Conflict of interest Law, identifies the activities that Town employees are restricted or prohibited from participating in or being associated with, including but not necessarily limited to financial interests, outside activities, and standards of conduct. Town employees seeking outside employment are required to receive prior approval from their immediate supervisor/department head with notice to the Town Administrator.

The complete text of the Conflict of Interest Law is found on the Massachusetts State Ethics Commission website.

Employees are required to complete the Ethics Commission online training program no less frequently than biannually and furnish a certificate of completion to the Town Clerk.

2-9 Information Technology (IT) Policy

The Town of Wellfleet Information Technology (IT) policy is based upon currently applicable Commonwealth IT policy and the Wellfleet Board of Selectmen Computerization Policy dated July 29, 2002 as revised on September 22, 2015, current as of the date of this manual's publication.

This document formalizes the policy for employees and contractors ("users") of all Town of Wellfleet ("Town") **information technology resources**; ("ITRs"), including computers, printers and other peripherals, programs, data, local and wide area networks, and the Internet. Use of Town ITRs by any employee or contractor shall constitute acceptance of the terms of this policy and any such additional policies.

1. User Responsibilities

It is the responsibility of any person using Town ITRs to read, understand, and follow this policy. In addition, users are expected to exercise reasonable judgment in interpreting this policy and in making decisions about the use of ITRs. Any person with questions regarding the application or meaning of this policy should seek clarification from

appropriate management. Failure to observe this policy may subject individuals to disciplinary action, including termination of employment.

2. Acceptable Uses

The Town firmly believes that ITRs empower users and make their jobs more fulfilling by allowing them to deliver better services at lower costs. As such, employees and contractors are encouraged to use ITRs to the fullest extent in pursuit of the Town's goals and objectives.

3. Unacceptable Uses of Town ITRs

Unless such use is reasonably related to a user's job, it is unacceptable for any person to use Town ITRs:

- in furtherance of any illegal act, including violation of any criminal or civil laws or regulations, whether state or federal
- for any political purpose
- for any personal or commercial purpose
- to send threatening or harassing messages, whether sexual or otherwise
- to access or share sexually explicit, obscene, or otherwise inappropriate materials
- to infringe any intellectual property rights including distribution or use of computer programs and media files in violation of copyright or licensing terms
- to gain, or attempt to gain, unauthorized access to any computer or network
- for any use that causes interference with or disruption of network users and resources, including propagation of computer viruses or other harmful programs
- to intercept communications intended for other persons
- to misrepresent either the Town or a person's role at the Town
- to distribute chain letters,
- to send unsolicited bulk email.
- by using or installing unapproved software
- to access online gambling sites or
- to libel or otherwise defame any person

4. Data Confidentiality

In the course of performing their jobs, Town employees and contractors often have access to confidential or proprietary information, such as personal data about identifiable individuals or commercial information about business organizations. Under no circumstances is it permissible for employees or contractors to acquire access to confidential data unless such access is required by their jobs. Under no circumstances may employees or contractors disseminate any confidential information that they have rightful access to, unless such dissemination is required by their jobs. No ITR which contains confidential information may be removed from Town property.

5. Copyright Protection

Computer programs and media files are valuable intellectual property. Software publishers and media distributors can be very aggressive in protecting their property rights from infringement. In addition to software, legal protections can also exist for any

information published on the Internet, such as the text and graphics on a web site. As such, it is important that users respect the rights of intellectual property owners. Users should exercise care and judgment when copying or distributing computer programs or information that could reasonably be expected to be copyrighted or licensed.

6. Computer Malware

Users should exercise reasonable precautions in order to prevent the introduction of a computer malware into the local area or wide area networks. Malware scanning software should be used to check any software downloaded from the Internet or obtained from any questionable source. In addition, executable files (program files that end in ".exe") should not be stored on or run from network drives. Finally, it is a good practice to scan removable media periodically to see if they have been infected. Programs downloaded from the Internet should never be installed on Town computers without the assistance of Town IT Staff.

7. Network Security

Most desktop computers are connected to a local area network, which links computers within the Town and, through the wide area network, to most other computers in local government. As such, it is critically important that users take particular care to avoid compromising the security of the network. Most importantly, users should never share their passwords with anyone else, and should promptly notify Town IT personnel if they suspect their passwords have been compromised. In addition, users who will be leaving their PCs unattended for extended periods should either log off the network or have a password-protected screen saver in operation. Finally, no user is allowed to access other external networks remotely unless they have received specific permission from Town IT personnel.

8. E-mail

Emails are public records and are subject to being produced in response to public records requests and may be discoverable in court proceedings. Because e-mail addresses identify the organization that sent the message (first name last name @wellfleet-ma.gov), users should consider e-mail messages to be the equivalent of letters sent on official letterhead. For the same reason, users should ensure that all e-mails are written in a professional and courteous tone. Finally, although many users regard e-mail as being like a telephone in offering a quick, informal way to communicate, users should remember that e-mails can be stored, copied, printed, or forwarded by recipients. As such, users should not write anything in an e-mail message that they would not feel just as comfortable putting into a memorandum.

9. No Expectation of Privacy

Town ITRs are the property of the Town and are to be used in conformance with this policy. The Town retains control and the right at any time to inspect any user's computer, any data maintained in it or in any network location, and any data sent or received by that computer. Users should be aware that network administrators, in order to ensure proper network operations, routinely monitor network traffic. Use of Town ITRs constitutes

express consent for the Agency to monitor and/or inspect any data that users create or receive, any messages they send or receive, and any web sites that they access.

10. Removal of ITRs from Town Property

No ITR may be removed from Town property without written permission from the employee's supervisor or the Town Administrator. Any removed equipment must be returned in the same or better condition than when removed. Employees are financially responsible for loss or damage to ITRs in their possession.

2-10 Cell Phone Policy

BOARD OF SELECTMEN Cell Phone Policy Original Date: November 25, 2008 2008-3

(current as of the date of this manual's publication)

Policy

The Town of Wellfleet has determined that the limited use of cellular phones by Town employees is beneficial to Town operations and enhances employee efficiency. To control costs, the Town Administrator shall determine which employees will be assigned Town cell phone privileges. Town-issued cell phones are not a personal benefit and generally should not be used for personal communication.

All employees should take time to become familiar with the various cell phone functions. The cell phone should be placed where it is easy to see and reach. Employees should bear in mind that cell phone calls can be intercepted and should take proper precautions when discussing confidential information.

Accountability

Employees are responsible for the cell phones that have been issued to them. If personal calls have been made or received, it is the employee's responsibility to annotate all personal calls and to reimburse the Town, if the monthly usage included in the cell phone plan has been exceeded and if the amount owed is over one dollar. The fee for personal phone calls is \$0.25/minute. Department Heads are responsible for reviewing all department cell phone bills to confirm that the Town has received proper reimbursement for personal calls. Employees must pay for the personal phone calls within 10 working days after receiving the bill by submitting a check to the Office of the Town Clerk.

All equipment purchased by the Town remains the property of the Town. When an employee leaves the Town, all equipment must be returned to the Town. If an employee no longer needs a cell phone, a Department Head should notify the Town Administrator's office.

Personal Cell Phones

An employee who is not assigned a Town cell phone may be designated by the Town Administrator to use a personal cell phone for Town business calls and receive reimbursement via the Town's reimbursement procedures.

A designated employee will receive reimbursement of \$25 per month. To receive reimbursement, an employee must adhere to the following reimbursement procedures. An

employee:

- Must be designated by the Town Administrator;
- Agree that all other cell phone costs are the employee's responsibility;
- Agree to provide the number to the Town Administrator's office for distribution to selected Town personnel;
- Agree to monitor the cell phone while off work and be reasonably reachable via the cell phone for official Town business calls;
- File the appropriate reimbursement paperwork with the Department Head after the month has concluded.

Requirements

All employees issued a Town cell phone should familiarize themselves with this policy. Failure to adhere to established rules and regulations may result in the loss of their cell phone privileges.

2-11 Social Media Policy

*BOARD OF SELECTMEN Social Media Policy Original Date: September 22, 2015 2015-1
(current as of the date of this manual's publication)*

Purpose

The following policy pertains to official ("Town") and non-official ("Personal") use of social media services and tools. The Town permits the use of social media sites as a means to disseminate information from the Town to the members of the public. Consequently, the Town has both an expectation and a responsibility regarding the integrity and presentation of information posted on its social media sites and the content that is attributed to the Town, its Departments and its officials.

Definitions

"Social media sites" means content created by individuals using publishing technologies through and on the Internet. The types of content and examples of services to which this policy applies include, but are not limited to:

- Media Sharing - Examples: YouTube, Flickr, iTunes
- Blogging/Microblogging - Examples: WordPress, Blogger, Twitter
- Social Networking - Examples: Facebook, MySpace, LinkedIn, Ning
- Document and Data Sharing Repositories - Examples: Scribd, SlideShare, Socrata
- Social Bookmarking - Delicious, Digg, Reddit
- Widgets - Examples: Google Maps, AddThis, Facebook "Like"

"Town social media sites" means social media sites and content which the Town establishes and maintains, with the exception of content from advertisements or hyperlinks provided by the social media site's owners, vendors, or partners. Town social media sites do not replace the Town's required notices and standard methods of communication.

"Posts" or "postings" means the content, information, articles, pictures, videos or any other form of communication posted on a Town social media site.

Guidelines

1. The establishment of Town social media sites is subject to the prior written approval of the Department Head with the concurrence of the Town Administrator or his/her designee.

2. The Town reserves the right to edit the contents of or terminate any Town social media site at any time without notice.

3. The contents of Town social media sites shall pertain only to Town-sponsored or Town-endorsed programs, services, and events. Contents include, but are not limited to, information, photographs, videos, and hyperlinks.

4. All Town social media sites shall adhere to applicable federal, state and local laws, regulations and policies. This adherence includes, but is not limited to laws pertaining to Copyright and Fair Use.

5. Any content maintained on a Town social media site that is related to Town business, including a list of subscribers, posted communication, and communication submitted for posting, shall be considered a public document.

6. Employees representing the Town on Town social media sites shall conduct themselves at all times as a professional representative of the Town and in accordance with all Town policies. These policies include but are not limited to Town policies on Discrimination, Harassment or Workplace Violence.

7. Postings must contain information that is freely available to the public and not be proprietary or confidential as defined by any Town policy or state or federal law.

8. Any employee authorized to post items on any of the Town's social media sites shall review, be familiar with, and comply with the social media site's use policies and terms and conditions.

9. Any employee authorized to post items on any of the Town's social media sites shall not express his or her own personal views or concerns through such postings. Postings shall reflect only information authorized by the Town, acting through its designated representatives.

10. Town social media sites should use authorized Town contact information for account set-up, monitoring and access. The use of personal email accounts or phone numbers by any Town employee is not allowed for the purpose of setting-up, monitoring, or accessing a Town social media site.

11. Absent prior authorization, postings to Town social media sites shall NOT contain any of the following:

- Comments in support of, or opposition to, political campaigns, candidates or ballot measures;
- Profane language or content;
- Content that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, military services, national origin, physical or mental disability, sexual orientation, as well as any other category protected by federal, state, or local laws;

- Sexual content or links to sexual content;
- Solicitations of commerce;
- Conduct or encouragement of illegal activity;
- Information that may tend to compromise the safety or security of the public or public systems; or
- Content that violates a legal ownership interest of any other party.

Non-official/personal use

Town employees who use social media and social networking services and tools for strictly personal use outside of the workplace do not require approval to do so. However, the Town recognizes that these types of tools sometimes blur the line between professional and personal interactions. Therefore, Town employees are reminded that as representatives of the Town the above rules and guidelines must be taken into consideration when participating in these services at any time, particularly when identifying themselves as employees of the Town or when context might lead to that conclusion. Town employees should use discretion and common sense when employing social media to prevent inadvertently compromising professional, legal, or ethical standards. Town employees should refrain from using social media services and tools for personal use while on work time or when using Town provided equipment, unless it is work-related as authorized by the Department Head. Town employees should have no expectation of privacy when using social media sites at the workplace, or when using Town computers, systems or other technology. **The Town reserves the right to access, view and act upon any information on its computers, systems or other technology without notice.**

In a publicly accessible forum, Town employees may not disclose any Town-related information that is not already considered public information. This rule applies even in circumstances where password or other privacy controls are implemented. Failure to comply may result in disciplinary action. This policy, however, does not prevent Town employees from discussing the terms or conditions of their employment, unfair labor practices, or otherwise exercising their rights to collective bargaining.

Non-Compliance

Non-compliance with this policy may result in any or all of the following:

- Limitation or revocation of individual or unit rights to use or participate in Town-related social media;
- Removal of posts or social media accounts; and/or
- Corrective or disciplinary actions and sanctions.

2-12 Policy on Use of Town Vehicles

BOARD OF SELECTMEN Policy on Use of Town Vehicles Original Date: September 16, 1991 1991-2

Reaffirmed: August 1, 1994 Reaffirmed: September 1, 1997 Revised: March 16, 1998 Reaffirmed: January 29, 2001 Reaffirmed: March 9, 2004. Current as of the date of this manual's publication.

1. Town-owned vehicles are not to be used for personal uses, except for that which is considered “*de minimis*” personal use as defined by the IRS (see note below).

2. Employees who have 24-hour emergency responsibilities may be permitted by the Board of Selectmen to use a Town-owned auto or pickup truck for commuting to and from work, only; no other personal use of this vehicle is allowed. Vehicles so designated shall be determined annually by the Town Administrator and such list will be provided to the Board of Selectmen.

3. All Town vehicles will be inspected each day for possible damage and assessment of responsibility therefore.

4. Except as indicated in (2) above, Town vehicles will be left on Town property at the end of the workday.

Note: “*De minimis*” personal use is that use which is so insignificant as to make accounting for it unreasonable or administratively impractical (*e.g.*, “stopping for an occasional personal errand while using a municipal vehicle for an approved municipal purpose”).

5 Employees may not operate municipal vehicles under the influence of alcohol, illegal drugs, marijuana, or prescription drugs or medications which may interfere with effective and safe operation.

6 Employees driving municipal vehicles shall obey all applicable traffic and parking regulations, ordinances, and laws. Employees driving municipal vehicles shall not send or read text messages while operating the municipal vehicle.

2-13 Whistleblower Policy

The Town follows Massachusetts General Laws, Chapter 149, Section 185, known as the Whistleblower Protection Act, 1922 (the Act). Copies of the Act shall be posted on Town properties where Town employees may have access to them. Pursuant to Section (c) (1) of the Act, any written notification of any violation of a law, rule, or regulation promulgated pursuant to law shall be provided to the complaining employee’s Department Head, the Town Administrator, or the Town Administrator’s designee. Section (c)(2) of the Act outlines the circumstances when such notification is not required.

The alerted Department Head, Town Administrator, or Town Administrator’s designee shall take prompt action to assist the Town in an investigation of the reported violation. After the investigation is completed, the complaining Town employee shall be advised of the results of the investigation, except for personnel actions taken as a result of the investigation. Those personnel actions shall be kept confidential.

III. EMPLOYMENT PRACTICES

3-1 Conditions of Employment

Town of Wellfleet employees are employed at will. This means that employment is not for a specific term and is by mutual consent. Accordingly, either the Town employee or the Town of Wellfleet can terminate the employment relationship at will, with or without cause, at any time and for any reason except an unlawful one. This relationship may not

be modified except in cases where a contract exists between the employee and the Town of Wellfleet.

For union employees, refer to the applicable collective bargaining agreement for the conditions of employment.

3.2 Recruitment

Recruitment and hiring of prospective employees shall be conducted in a nondiscriminatory manner under fair and open competition on the basis of knowledge, education, skills and abilities for the position.

Requests to fill vacancies are made by department heads to the Town Administrator who is responsible for the recruitment of all Town positions except when governed by the Town Charter. Notices of vacancies are posted on bulletin boards throughout the Town and are posted on the Town website.

3-3 Selection

The Town Administrator, in accordance with established policy and Town, Commonwealth, and Federal laws, administers the pre-screening of all applicants for a position. Once the application deadline has passed, the Town Administrator or designee and appropriate department head interview those candidates determined to be best qualified for the position based upon the job requirements and qualifications. The department head documents every interview and recommends a candidate for the position. All written references are considered confidential information. Only the department head and representatives of the Town Administrator's Office directly involved in the selection process are allowed access to confidential information.

Certain positions in the Town of Wellfleet require acceptable background investigations and/or qualifying for bonding. Failure to successfully meet this qualification will render a candidate ineligible for employment in the position.

Final appointment of a selected applicant is made by the Town Administrator or the Board of Selectmen, as determined by the Town Charter, bylaw or applicable statute.

3-4 Pre-employment Examinations and Verifications

All candidates for Town employment shall receive an offer of employment contingent upon their successful completion of certain testing. Such testing may include examination to verify the absence of illegal drugs and alcohol, a psychological examination, a physical examination, and other testing and verifications that may be required for the particular position involved. All candidates agree and accept that any offer of Town employment is contingent upon the appropriate results of any position-specific examination and verifications as may be required.

3-5 Intentionally omitted.

3.6 Orientation

Town employees who are initially made to feel comfortable in their new surroundings are more likely to be productive, safe and satisfied employees. Orientation to Wellfleet municipal offices and procedures is provided for new and transferred Town employees.

All new employees report on their starting date to the department head or designee responsible for:

1. Giving each employee a general overview of the structure and functions of the Wellfleet Town government, including how the employee's job relates to the others within an office and in the Town.
2. Introducing the new employee to persons in the Town government with whom the employee will have contact.
3. Providing information to the employee on where to go for information and assistance.
4. Discussing personnel guidelines and terms of employment.
5. Providing a copy of the Personnel Manual.
6. Providing job specific information such as an explanation and illustrations of work procedures; providing on-site training including hands-on use of equipment and systems; orienting the employee to the department; and stressing safety requirements and issues.
7. Providing a copy of the employee's job description.
8. Providing job performance expectations.

3-7 Probationary Period

Each new Town employee shall be subject to a period of probation.

Certain probationary periods are established by the applicable Collective Bargaining Agreement. For example, Dispatchers, Permanent Firefighters and Police Officers all have a probationary period of one year; Teamsters (DPW employees) have a probationary period of 10 months; and Town employees subject to WEA contracts (Unit A - Department heads, Unit B - office staff, Unit C - call firefighters) have a period of one year. To the extent that the provisions of this Manual are in conflict with the provisions of a current collective bargaining agreement relative to probationary periods, the terms of the collective bargaining agreement shall prevail.

Any Town employee not subject to a Collective Bargaining Agreement or an employment contract shall have a one year probationary period.

3-8 Personnel Records, Medical Records and Employee Access to Records

An individual personnel file for each Town employee shall be created and kept in a locked file in a location or locations designated by the Town Administrator. Such a file shall contain, at a minimum, the employee's job application, employment history records, evaluations, correspondence relating to the employee, the employee's performance

history including any written commendations and discipline, and the employee's wage and benefit history. This list is not meant to be exhaustive.

A Town employee's medical information, if any, shall be segregated from his/her personnel file and maintained in a separate file kept with the personnel file. Such a file may contain the details of an employee's pre- or post-employment physical examination, accident and injury reports, and worker's compensation information. This list is not intended to be exhaustive.

ALL PERSONNEL FILES AND EMPLOYEE MEDICAL RECORDS ARE CONFIDENTIAL. Such files and records are the property of the Town and may be used by the Town for legitimate purposes upon good cause shown with the written approval of the Town Administrator.

The Town shall permit any current or past Town employee to exercise the option to review his/her personnel file and medical records and obtain copies of those materials at the employee's own expense. A written request for access must be made to the Town Administrator who will respond personally or through his/her designee to the employee within five (5) days of receiving the request.

The Town shall notify an employee within ten (10) days of the employer placing in the employee's personnel file any information to the extent that the information is, has been used or may be used, to negatively affect the employee's qualification for employment, promotion, transfer, additional compensation or the possibility that the employee will be subject to disciplinary action. If the Town receives a written request from an employee requesting to view his/her personnel file, the Town shall make arrangements for the employee to review his/her file within five (5) business days of such request. The review shall take place at the place of employment during normal business hours. An employee shall be given a copy of his/her personnel record within five (5) business days of submission of a written request for such copy to the employer. An employee may request in writing that the material in his/her personnel file be corrected or removed from the file and, if denied, a written rebuttal from the employee may be included in the personnel file.

3-9 Performance Evaluation

The Town shall have the right to evaluate an employee's performance at any time. Each Town employee shall be evaluated by his or her supervisor on an annual basis as close to the anniversary date of hire or promotion to a new position as is practicable. Such evaluation shall be in writing and signed by the person conducting the evaluation. The employee shall sign the evaluation form to acknowledge receipt of a copy and shall also be afforded the opportunity to self-evaluate and to make written comments. Any self-evaluation or written comments by the employee shall be included with the evaluation form and placed in the employee's personnel file. During the evaluation which measures the employee's performance against the job description for the position, both the employee and supervisor shall be afforded the opportunity to update or revise the job description as necessary or appropriate.

3-10 Grievance Procedures

It shall be the policy of the Town to reconcile employee grievances in a timely, appropriate, and effective manner.

Section 1.

Any grievance or dispute which may arise between a contract or non-union Town employee with the Town concerning the terms and conditions of his/her employment shall be settled in the following manner unless a specific procedure had been established at the time of hire:

Step 1. The employee shall submit a grievance in writing to his/her immediate supervisor or the appropriate designee within fourteen (14) calendar days after the employee knew or should have known of the occurrence or failure of occurrence of the incident upon which the grievance is based. The Supervisor or his/her designee shall have fourteen (14) calendar days to respond to the grievance.

Step 2. If the grievance has not been resolved after its submission to the immediate supervisor or his/her designee, it shall be submitted to the Town Administrator or his/her designee in writing within fourteen (14) calendar days after the response of the supervisor or his / her designee, or the date on which the answer is due, whichever is earlier. The Town Administrator shall have fourteen (14) calendar days to respond to the grievance.

Step 3. If the grievance has not been resolved after its submission to the Town Administrator or his/her designee, it shall be submitted to the Board of Selectmen in writing within fourteen (14) calendar days after the response of the Town Administrator or his/her designee, or the date on which the answer is due whichever date is earlier. Within thirty (30) calendar days of receipt of the grievance, the Board of Selectmen, or their designee, shall hold a hearing, and shall render a decision within twenty-one (21) calendar days after the hearing.

Section 2. Time Limits

If at the end of fourteen (14) calendar days next following the occurrence of any grievance or the date when any employee affected by the grievance should have knowledge of its occurrence, whichever is later, the grievance shall not have been presented at Step 1 of the procedures set forth herein, the grievance shall be deemed to have been waived. Any grievance in process under such procedure shall be deemed to have been waived if the action required to process the said grievance to the next step in the procedure by the Employee shall not have been taken within the time specified thereof above. Any grievance in process under such procedure shall be deemed to have been denied if the action required of the Employer shall not have been taken within the time specified thereof above. Any time limits herein set forth may be waived and/or extended by mutual agreement of the employee and the Town.

Section 3.

Notwithstanding any contrary provisions of this Policy, matters concerning the discipline or discharge of a probationary employee shall not be subject to the grievance provisions of this Article.

3-10-1 GRIEVANCE PROCEDURE FORM

Name / Rank of Employee:

Incident Time and Date:

Contract Provision, Rule, Policy, Agreement, Etc. Involved:

Brief Description of Grievance:

Steps Taken to Resolve Informally:

Settlement Desired:

Submitted By (Employee): _____ Date: _____

Received By: _____ Date: _____

Action of Management Satisfactory? Yes ____ No ____

3-11 Disciplinary Policy and Action

Discipline shall primarily be the responsibility of the Town Administrator in conjunction with the Department Head and/or Supervisor, and may include one or more of the following:

- Oral reprimand, written reprimand, suspension, disciplinary probation and/or discharge.

The above list is illustrative and not definitive and is not intended to limit the Town as employer.

A written, dated notice of any of the above actions on a standard form prepared by the Town Administrator in conjunction with the Personnel Board shall be given to the employee with a copy to the department head/or supervisor and a copy placed in the employee's personnel file.

3-12 Involuntary Termination, Resignation, Layoff and Retirement

3.12.1 Involuntary Termination

Unless otherwise provided by contract, letter agreement, or other writing to the contrary, all employees of the Town are employees at will, and their employment may be terminated by the Town at any time, with or without cause, and with or without notice, provided, however, that if no notice is given, an employee terminated involuntarily may, at the sole discretion of the Town Administrator, receive two weeks of salary in addition to other benefits he/she may have accumulated in accordance with Town policy.

3.12.2 Voluntary Termination

A Town employee is free to terminate his/her employment relationship at any time with or without notice, provided that whenever possible, the employee shall present a statement of resignation to his/her supervisor in writing. A minimum of two (2) weeks notice is encouraged by the office of the Town Administrator to enable recruitment and development of a work plan while the position remains vacant.

3.12.3 Layoffs

In the case of the necessity of layoff or reduction of personnel for lack of work or owing to fiscal constraints, unless otherwise provided by contract, layoffs shall be determined first by the needs of the Town on a department and position-by-position basis. If there is more than one Town employee in a particular department position, the employee with the lesser length of continuous service will be laid off first if all other necessary factors are equal.

3.12.4 Retirement Procedure

Membership in a contributory retirement system is mandatory for all Town employees whose employment commences prior to attaining the age of sixty-five (65). Retirement system contributions are as follows: employees hired prior to January 1, 1975 contribute 5%; those hired between January 1, 1975 to January 1, 1984 contribute 7%; those hired between January 1, 1984 and June 30, 1996 contribute 8%; and those hired after June 30, 1996 contribute 9%, plus an additional 2% for any income over \$30,000 (for those hired

after January 1, 1979) of their regular compensation. Town employees earn creditable service for full-time, contributory employment.

A Town employee may apply to the Barnstable County Retirement Board as early as four (4) months prior to the intended date of retirement. An employee must initiate the retirement procedure by making a written request to the Retirement Board. A personal interview with the designated representative of the Retirement Office is recommended to help determine the appropriate retirement option, retirement benefits, and dates on which the employee becomes eligible. Retiring Town employees are encouraged to speak with the Town Treasurer and County Retirement Board prior to finalizing a retirement date to calculate accrued vacation.

3-13 Longevity

Based on anniversary date, all non-union, regular, full-time Town employees shall receive a longevity bonus in accordance with the following schedule: \$100 after five (5) years of continuous service, plus an additional \$10.00 per year for each subsequent year. The longevity bonus shall be paid on the first payroll day following the anniversary date to those who qualify by length of continuous service. Permanent, part-time, regular Town employees in continuous service shall be entitled to one-half the longevity bonus paid to full-time Town employees.

IV. JOB CLASSIFICATION

4-1 Job Descriptions

The Town of Wellfleet personnel system requires that each position have an accurate job description. The Town recognizes that the function, duties, and level of responsibility of a position may change occasionally and warrant a new or revised job description.

As conditions warrant, new jobs may need to be created and existing jobs may need to be changed or eliminated owing to reorganization, change in functions and operations, Town fiscal status, and other reasons. The Town Administrator, in consultation with the Board of Selectmen and the Personnel Board, may determine that a new job description is needed and prepare a new job description.

4-2 Promotion, Classification and Job Reclassifications

The Town of Wellfleet maintains a job classification plan and system that form the foundation of its personnel administration system and compensation plans for non-union and union employees. This plan and system provide the basis for the systematic methodology for evaluating and ranking the work of Town jobs; establishing classes of jobs; and recruiting, rewarding, and retaining qualified employees. The Town is committed to maintaining and updating the job evaluation plan as work changes, and recognizes that the duties and responsibilities of a position may change over time. Jobs may be reviewed at any time and will be reviewed by the employee and supervisor at the time of performance evaluation.

The job evaluation plan in the Position Rating Manual identifies and defines fourteen (14) factors that may apply to each job, and degrees within each factor that distinguish the work of a job. Using this plan, each job, whether new or changed, is evaluated against the factors and degrees and then given a “point factor total,” or score, which determines its place in the Town’s classification system and its compensation level.

Employees and supervisors who believe that a job is improperly classified may request a classification review. Supervisors, in conjunction with the employee, who believe that the work and characteristics of a job have substantially changed, should prepare a revised job description and submit the job description for review to the Department Head or Union and, upon approval, should submit the request to the Town Administrator’s office which is responsible for researching and analyzing the classification request.

The Town Administrator or a designee, upon approval, will acknowledge receipt of the request, review the job description, and schedule and conduct interviews with the employee and Department Head. Consequently, the job description will be analyzed and evaluated using the factors and degrees in the job evaluation plan, scored, and validated against similar jobs. The Town Administrator or a designee will meet with the employee and the Department Head to discuss the results and any changes.

If a change in grade of any position is justified, the result will increase or decrease the compensation of the job. The Town Administrator will notify the Town Treasurer and Town Accountant of an increase or decrease in an employee’s compensation.

V. SALARY AND WAGE ADMINISTRATION

5-1 Wages and Salaries

Most full-time Town employees and a few part-time Town employees are covered by union contracts. Other full-time Town employees are covered by separate employment agreements. These contracts provide the basis for any starting wage or salary, any increases from one year to the next, and any promotions. It is recommended that any interested Town employee consult his/her supervisor to find out what may be applicable.

Elected, full-time Town employees, if any, are paid an annual salary as determined by Town Meeting.

Most part-time and seasonal Town employees are paid an hourly wage. Increases in such wages are determined and set by the Town Administrator after consultation with the appropriate supervisor. It is recommended that any interested Town employee consult his/her supervisor to find out the appropriate wage for a position.

5-2 Regular Work Week

The work week of Town employees is defined by the applicable collective bargaining agreement or employment contract. It is recommended that interested Town employees consult his/her supervisor with any related questions.

5-3 Overtime

Hourly employees including part time and seasonal employees are eligible for overtime at time and one half for all hours worked in excess of 40 in one week. Union contracts may provide for higher overtime pay in certain instances. Consult your supervisor to find out whether this applies to you.

VI. BENEFITS

A. AUTHORIZED LEAVE

6-1 Vacation Leave

Unless a contract specifies otherwise, the following shall apply.

In accordance with the following rules and regulations, all regular, full-time and regular, part-time Town employees are entitled to annual Vacation Leave.

For Town employees hired before July 1, 2008, Vacation Leave shall accrue monthly and be credited annually on the employee's anniversary date of hire according to the following schedule:

<u>Years of Service</u>	<u>Vacation Leave allowed</u>
Less than 6 months	0 days
6 months up to 1 year	5 days
1 year but less than 5 years	10 days
5 years but less than 10 years	15 days
10 years but less than 14 years	20 days
14 years but less than 18 years	25 days
18 or more years	30 days

Regular, part-time Town employees shall accrue prorated Vacation Leave based on the number of hours worked in a day according to their regular schedule.

Regular part-time fewer than 20 hours employees are entitled to annual vacations as follows:

<u>Years of Service</u>	<u>Vacation Leave allowed</u>
1 to 9 years	7 days
10 or more years	14 days

Regular part-time employees' and regular part-time fewer than 20 hours employees' vacations days are based on the average number of hours worked in a day according to their regular schedule.

For all Town employees hired after June 30, 2008 and before April 23, 2013, vacation days shall accrue monthly and be credited annually on the employee's anniversary date of hire according to the following schedule.

<u>Years of Service</u>	<u>Vacation Leave allowed</u>
Less than 1 year	0 days
1 year but less than 5 years	10 days
5 years but less than 10 years	15 days

10 years but less than 15 years	20 days
15 years but less than 20 years	25 days
More than 20 years	30 days

For all employees hired after April 22, 2013, vacation days shall accrue monthly and be credited annually on the employee's anniversary date of hire according to the following schedule.

<u>Years of Service</u>	<u>Vacation Leave allowed</u>
0 to 6 months	0 days
6 months to 1 year	5 days
1 year but less than 5	10 days
5 years but less than 10	15 days
More than 10 years	20 days

Vacation Leave must be taken in the anniversary year earned. Written request by the employee for exceptions to this rule must be approved in writing by the Department Head. When a conflict in requests for Vacation Leave arises, the request of the employee with the greater length of continuous service shall prevail for no more than two weeks per year.

Written Vacation Leave requests shall be submitted to Department Heads who will approve and schedule Vacation Leaves. Requests for Vacation Leave shall not be unreasonably refused, withheld or denied.

Any Town employee leaving the service of the Town shall be compensated at his/her current rate of pay for Vacation Leave earned but not taken.

Upon the death of a Town employee who is eligible for Vacation Leave, payment shall be made to his/her beneficiary or estate at the employee's last rate of pay.

6-2 Sick Leave

Unless a contract specifies otherwise, the following shall apply.

Sick leave shall be defined as any absence due to the Town employee's injury, illness, or appointment with a doctor or other medical professional.

All permanent full-time and permanent part-time Town employees shall accrue and be entitled to use sick leave on the following basis:

Regular, full-time Town employees earn sick leave on the basis of one and one-quarter (1¼) days for each full month of continuous employment or a total of fifteen (15) days per year.

Part-time Town employees and part-time Town employees who work fewer than 20 hours per week earn prorated sick leave based on the average number of hours worked in a day according to their regular schedule.

Sick leave credits for full-time Town employees may be allowed to accumulate to a maximum of one hundred twenty (120) days.

Sick leave credits for permanent, part-time Town employees may be allowed to accumulate to a maximum of one hundred twenty (120) equivalent days.

After a Town employee has been absent owing to sickness or injury for at least five (5) consecutive days, the Town may require the employee to submit adequate medical evidence from the employee's treating physician to support the need for the sick time and clear the employee to return to work.

The Department Head or a designee must be notified by the employee about the employee's absence as soon as possible, but in no event later than one (1) hour after the start of the employee's work day.

In the event that the Town reasonably determines that an employee has abused sick leave, the Town, in the person of the Town Administrator or a Department Head with the approval of the Town Administrator may disallow the sick leave and/or may discipline the employee. A Town employee may take the option to apply accrued vacation time to sick leave in cases of prolonged illness.

Sick Leave Buyback

Any Town employee who terminates employment through retirement under Massachusetts General Laws Chapter 32, or death shall be entitled to cash payment at his/her current rate of pay for 25% of his/her unused accrued sick leave, accrued sick leave not to exceed one hundred twenty (120) days. In case of death, the payment due hereunder shall be made to a surviving spouse, or to a designated beneficiary, or to the estate.

Sick Leave Bank Program

Introduction

The Sick Leave Bank ("SLB") is a voluntary program for Town employees (full and part time). The basic purpose of the Sick Leave Bank is to provide additional sick days to a contributing employee for a serious, prolonged, extended illness situation. The Sick Leave Bank is available only for the employee's aforementioned illness. However, if an employee does not participate in the SLB by contributing sick leave hours, he/she CANNOT benefit from it.

Program Details

Solicitation for participation in the SLB program shall occur after 30 days of hire for new employees. Solicitation for existing employees shall occur in June for the next fiscal year. Unless an employee's participation in a SLB is covered by his/her individual employment agreement or a collective bargaining agreement, a participating employee shall contribute one-quarter (1/4) day of earned sick leave each month. The participating employee's contribution shall continue until the SLB contains deposits of three hundred (300) sick leave days. At that point, all contributions of sick leave shall be suspended. If the SLB's deposited sick leave days then fall to one hundred fifty (150) or below, contributions shall resume as they existed before the suspension. The Committee charged with operating the SLB may request that participating employees make additional contributions of sick leave days if an unusual event occurs. New hires or current employee joining or re-joining the SLB shall be exempt from any freeze for one year from the time of their entrance into the program.

If a Town employee participates in the SLB during one Town fiscal year, but elects NOT to participate in the next, NO sick leave days shall be returned to the employee. Once an employee's sick leave days enter the SLB, those sick leave hours can ONLY be used in the SLB program.

SLB Committee

The SLB program shall be administered by a SLB Committee. The Committee shall have five (5) members. The members shall consist of: two (2) non-Union contract employees appointed by the Town Administrator and three Union employees, one from the Wellfleet Employees Association (WEA), one from the Wellfleet Permanent Firefighters Union, and the third from the Teamsters' Union. A member of the SLB Committee may be removed from his/her position for non-attendance at four (4) consecutive SLB Committee meetings, removal or retirement from Town employment, or incapacity to serve. In the event that a member of the SLB committee is an applicant requesting days from the SLB an alternate voting member will be chosen from that individual's representative group to serve as a voting member for their application.

Requests to use Sick Leave Hours from the SLB

Any participating employee may make a confidential written request to receive sick leave hours from the SLB. Such a request shall state the employee's full name, Town employment position and that the employee participates in the SLB. The request shall also provide an explanation with sufficient detail concerning why the request is being made at this time. Sufficient detail, in this context, means attaching appropriate medical documentation to support the claim in the request. The complete request shall be submitted in an envelope marked CONFIDENTIAL SLB REQUEST and submitted to the OFFICE OF THE TOWN ADMINISTRATOR. The Town Administrator shall as quickly as possible convey the writing to the SLB Committee in a manner that preserves the employee's confidentiality. Any retained copies of the employee's request shall be kept at Town Hall in a locked file cabinet.

The SLB Committee shall meet as quickly as possible to consider the employee's request. In deciding whether to grant the employee's request, the SLB Committee shall consider the following:

- (1) The doctor's written determination addressing the request;
- (2) The employee's prior circumstances with available sick leave, the expected duration of this health event, any documented abuse of sick leave, and any additional compelling circumstances.

The SLB Committee shall deny an application for sick leave hours when:

- (1) The applicant is not a presently participating SLB employee;
- (2) The applicant has not already exhausted all accumulated sick leave time and any other available Paid leave (except for Vacation and Personal time);
- (3) The applicant's specific health event does not render him/her incapable of performing his/her job;

The SLB Committee may in its sole discretion DENY an application when it finds any one of the following to be true:

- (1) The applicant has abused sick leave in the past;
- (2) The applicant has not yet exhausted accumulated sick leave time and other available Paid leave (except for Vacation and Personal time);
- (3) The applicant has made previous granted applications to the SLB and this application is deemed excessive; or
- (4) Other just cause for denying the application exists.
- (5) The applicant's request is not supported by appropriate information.

Any initial grant of sick leave days by the SLB Committee to an applicant shall not exceed thirty (30) days. An employee may make requests for additional sick leave days from the SLB in accordance with the application process set out above. Any additional grants by the SLB Committee of sick leave days may be made in increments of up to thirty (30) days. There is no entitlement to such an additional grant and any such additional grant shall be solely within the discretion of the SLB Committee. If an employee does not need to use the entire number of days granted, he/she shall inform the Town Administrator in writing in an envelope marked as detailed above. The Town Administrator shall retain such writing and have it placed in the employee's Personnel File and treat it as a confidential medical record. Any unused sick bank time shall be returned to the bank.

All decisions of the SLB Committee shall be confidential and disclosed only to the limited extent needed to effectuate a granting of sick leave bank days to the employee. Denials shall be made only to the employee, members of the SLB Committee and the Town Administrator. Records of grants and denials shall be provided to the Town Administrator who will have such records maintained as confidential portions of the employee's Personnel File.

ANY DECISION TO GRANT OR DENY AN APPLICANT'S REQUEST FOR SICK LEAVE HOURS RESTS SOLELY WITHIN THE DISCRETION OF A MAJORITY VOTE OF THE SLB COMMITTEE. THE DECISION IS FINAL AND CANNOT BE APPEALED OR CONTESTED IN ANY MANNER.

SICK LEAVE BANK EMPLOYEE ACKNOWLEDGMENT

I have received the Sick Leave Bank Program Information of the Town of Wellfleet and understand that it is my responsibility to read the material and comply with all laws, policies and procedures set forth therein. I understand that these documents are not an employment contract and **I understand that they can be changed or amended by the Town at any time with notice, subject to any collective bargaining obligations.** I give my permission to allow the SLB Committee to view my medical information which I may need to provide in order to adequately have my application evaluated and have a decision rendered.

I understand that if I have any questions or concerns about the information provided in the Sick Leave Bank Program Information, it is my responsibility to request further information or clarification.

The information herein are current as of this printing. The Town reserves the right to change, modify, or amend all or part of any policy. Selectmen’s policies are identified specifically and should be checked for updates before reliance upon any version.

Employee Name (Please print full name)

Signature of Employee

Date Signed

6-3 Bereavement Leave

Town employees will be allowed to take up to four (4) working days off with pay should a death occur within their immediate family. These bereavement days will be for the purpose of making arrangements and attending wakes, funerals, and/or memorial services. For the purpose of this section, immediate family shall be defined as the employee's spouse, parents, stepparents, grandparents, children, stepchildren, grandchildren, brothers, sisters, mother-in-law, father-in-law, and other actual members of the employee's household. One (1) day of bereavement leave will be allowed for the employee to attend the funeral or memorial service of an aunt, uncle, niece, nephew, brother-in-law, or sister-in-law. Leave time permitted pursuant to this Policy may, at the sole discretion of the Town Administrator, be adjusted owing to special and unusual circumstances.

6-4 Family and Medical Leave Act (FMLA)

Policy

It is the policy of the Town of Wellfleet to comply with the provisions of the Family and Medical Leave Act of 1993 (FMLA), as amended.

Definitions for FMLA:

Eligible Employee: Town employees are eligible if they have worked for at least one year and have provided at least 1,250 hours of service during the previous 12-month period.

Covered Family Member: Town employee's spouse, son or daughter, or parent (as described in FMLA).

The 12 Month Period: The eligible period for leave shall be measured by rolling backward from the date an employee uses any FMLA leave.

An employee granted FMLA Leave must first use available sick leave followed by vacation leave, and then available compensatory/flex time.

The Town retains the right to apply FMLA leave concurrent with any other leave that an employee may qualify for because of the same condition or event.

Serious Health Condition: An illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Basic Leave Entitlement

FMLA provides for up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

1. For incapacity due to pregnancy, prenatal medical care or child birth;
2. To care for the employee's child after birth, or placement for adoption or foster care;
3. To care for the employee's family member who has a serious health condition; or,
4. For a serious health condition that makes the employee unable to perform the employee's job.

Limitation: Entitlement to leave for the birth or placement of a child (1 and 2 above), expires at the end of the 12-month period beginning on the date of such birth or placement.

Military Family Leave Entitlement

Eligible Town employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service member during a single 12-month period. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

Intermittent or Reduced Leave

A Town employee may take leave intermittently (a few days or a few hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition or because of their own serious health condition when medically necessary. Medically necessary means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule.

The employee may be required to transfer temporarily to a position with equivalent pay and benefits that better accommodates recurring periods of leave when the leave is planned based on scheduled medical treatment.

Procedure

Employee Notice Requirement

A Town employee must provide 30 days advance notice in the event of a foreseeable leave. A Request for Family and Medical Leave form (available from the Town Treasurer's Office) should be completed by the employee and returned to his/her immediate supervisor. When 30 days is not possible, the employee must provide notice as

soon as practicable, usually verbal notice within one or two business days of when the need for leave becomes known, followed by a completed Request for Family and Medical Leave form.

Town employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions; the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Town employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Town employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Medical Certification of a Serious Health Condition

For leaves taken because of a serious health condition, the employer may require the employee to submit a completed Certification of Health Care Provider form to their immediate supervisor within 15 days of the leave request, or as soon as is reasonably possible. Forms are available from the Town Treasurer's Office (Form WH-380-E for employee, Form WH-380-F for family member, Form WH-385 for covered service member if Military Family Leave).

The Town of Wellfleet *may* require a second or third opinion (at the employer's expense), periodic reports on the employee's status to include a new Certification of Health Care Provider form every thirty days and intent to return to work, and a fitness-for-duty report to return to work.

All documentation related to the employee's or family member's medical condition will be held in confidence and maintained separate from the Town employee's Personnel file.

Effect on Benefits:

A Town employee granted a leave under this policy will continue to be covered under the Town's group health insurance plan and life insurance plans under the same conditions as coverage would have been provided if they had been continuously employed during the leave period.

A Town employee will be required to make his/her contributions either through payroll deduction or by direct payment to the Treasurer's Office. The employee will be advised in writing at the beginning of the leave period as to the amount and method of payment. Town employee contribution amounts are subject to change in rates that occur while the employee is on leave.

If the employee's contribution is more than 30 days late, the Treasurer's Office may terminate the employee's insurance coverage.

If the Town pays the employee contributions missed by the employee while on leave, the employee shall be required to reimburse the Town for delinquent payments (on a payroll deduction schedule) upon return from leave. The employee shall be required to sign a written statement at the beginning of the leave period authorizing the payroll deduction for delinquent payments.

If the employee fails to return from approved FMLA Leave for reasons other than; (1) the continuation of a serious health condition of the employee or a covered family member; or (2) circumstances beyond the employee's control (certification required within 30 days of failure to return for either reason), the Town may seek reimbursement from the employee for the Town's portion of the insurance premiums paid on behalf of that employee (also known as the employer contribution) for the length of the leave.

A Town employee is not entitled to seniority or benefit accrual during periods of *unpaid* leave, but will not lose amounts accrued prior to leave. A Town employee whose leave extends beyond twelve weeks and goes into an unpaid status will not accrue benefits or seniority for that extended period.

B. JOB PROTECTION

If the Town employee returns to work at the end of the approved FMLA Leave (up to 12 weeks Basic, or 26 weeks Military), he/she will be reinstated to his/her former position or an equivalent position with equivalent pay, benefits, status and authority.

The employee's restoration rights are the same as they would have been had the employee not been on leave. Thus, if the Town employee's position would have been eliminated or the employee would have been terminated but for the leave, the employee shall not have the right to be reinstated upon return from leave.

If the employee fails to return to work at the end of the approved FMLA Leave (up to 12 weeks Basic, or 26 weeks Military), the employee will be terminated, unless the leave may be extended under some other statute or Town policy.

6-5 Massachusetts Parental Leave Act (MPLA)

Policy

It is the policy of the Town to comply with the provisions of the Massachusetts Parental Leave Act (MPLA), G.L. c. 149, § 105D.

Eligibility

A Town employee is eligible for parental leave under the MPLA if:

1. She/he has completed an initial probationary period of six months or, in the event the employer does not utilize a probationary period for the position in question, has been employed for at least three consecutive months as a full-time employee; and
2. She/he is absent from such employment for a period not exceeding eight weeks for the purpose of:
 - a. the birth of a child; or
 - b. placement of a child under the age of 18 (or under the age of 23 if the child is mentally or physically disabled) with the employee adopting or intending to adopt the child.; and

If both parents work for the Town, they will be entitled to eight (8) weeks of parental leave in the aggregate, for the same child.

3. To be eligible for leave under this policy, the employee is required to provide two weeks' notice in advance of his or her anticipated date of departure, stating his or her intention to return and the anticipated date of return, or as soon as practicable, if the delay in notification is due to reasons beyond the employee's control.

Availability

Parental leave under the MPLA is available at the time of the birth or adoption, but not substantially earlier or substantially later.

Effect on Benefits

A Town employee granted a leave under this policy shall continue to be covered under the Town's group health insurance plan and life insurance plans under the same conditions as coverage would have been provided if she had been continuously employed during the leave period.

A Town employee's contributions will be required either through payroll deduction or by direct payment to the Town Treasurer's Office. The employee will be advised in writing at the beginning of the leave period as to the amount and method of payment. Employee contribution amounts are subject to change in rates that occur while the employee is on leave.

If the employee's contribution is more than 30 days late, the Town Treasurer's Office may terminate the employee's insurance coverage.

If the employee fails to return from approved Massachusetts Parental Leave for reasons other than; (1) the continuation of a serious health condition of the employee or a covered family member; or (2) circumstances beyond the employee's control (certification required within 30 days of failure to return for either reason), the Town may seek reimbursement from the employee for the Town's portion of the insurance premiums paid on behalf of that employee (also known as the employer contribution) for the length of the leave.

- An employee is not entitled to seniority or benefit accrual during periods of *unpaid* leave but will not lose the status accrued prior to leave.

Use of Accrued Vacation, Personal, and Sick Time

If parental leave is unpaid, the employee will be permitted (but not required) to use, concurrently with the parental leave, accrued vacation, personal, or sick time under the following circumstances:

1. Vacation or Personal Time – an employee may voluntarily use any accrued vacation or personal time she/he has concurrently with all or part of her/his parental leave.
2. Sick Leave – an employee may use sick leave concurrently with any part of his/her parental leave that satisfies the employer's sick leave policy.

The MPLA does not in any way limit the right of an employee to use accrued vacation, sick leave or personal time before her/his statutory parental leave begins, or after her/his leave ends, in accordance with her/his employer's policies and applicable law.

Job Protection

If the employee returns to work at the end of the approved MPLA Leave (up to 8 weeks), she/he will be reinstated to her/his former position or an equivalent position with equivalent pay, benefits, status and authority.

The employee's restoration rights are the same as they would have been had the employee not been on leave. Thus, if the employee's position would have been eliminated or the employee would have been terminated but for the leave, the employee would not have the right to be reinstated upon return from leave.

If the employee fails to return to work at the end of the approved MPLA Leave (up to 8 weeks), the employee will be terminated, unless the leave can be extended under some other statute or Town policy.

6-6 Domestic Violence Leave Act

It is the policy of the Town of Wellfleet to comply with the provisions of the Massachusetts Domestic Violence Leave Act, G.L. c. 149, §52E ("DVLA" or "the Act").

Application

This Policy applies to all employees of the Town of Wellfleet, excluding those employees under the supervision and control of the School Committee (if applicable). Employees whose employment is governed by a collective bargaining agreement or contract are subject only to those provisions of this Policy not specifically regulated by law or agreement.

Policy

The Town is committed to complying with the DVLA, as it may be amended from time to time. In the event of any conflict between the Town's DVLA policy and the state law and any applicable regulations, the state law/regulations applicable to the Town and its employees shall prevail.

Procedures

A. Eligibility

To qualify for domestic violence leave under the DVLA, an employee or a covered family member must be the victim of "abusive behavior." "Abusive behavior" includes any of the following behaviors: domestic violence, stalking, sexual assault, or kidnapping.

Domestic violence is abuse against an employee or a covered family member by a current or former spouse, a person with whom the victim shares a child, a person cohabitating with or who has cohabitated with the victim in the past, a relative by blood or marriage, or a person with whom the employee or family member has or had a dating or engagement relationship.

A Covered family member includes a spouse, parent, step-parent, child, step-child, sibling, grandparent, grandchild, persons in a substantive dating relationship or who reside together, persons having a child in common, or persons in a guardian relationship.

In the case of abuse of a family member, the employee is not entitled to leave if he or she is the alleged perpetrator.

B. Duration of Leave

If an employee or a covered family member of the employee is a victim of abusive behavior, he/she may take up to fifteen (15) days of unpaid leave in any 12-month period.

Employees are required to exhaust all paid leave before taking leave under the DVLA.

C. Reasons for Requesting Leave

Employees may request leave to address issues directly related to the abusive behavior. This includes seeking medical attention, counseling or victim services. Leave may also be taken to obtain legal assistance, to attend or appear in court proceedings, or to meet with a district attorney or law enforcement personnel. It is not a requirement of the Act that the employee maintain contact with the alleged abuser before being eligible for leave.

D. Notice

Employees must provide sufficient advance notice of the decision to use domestic violence leave, unless there is a threat of imminent danger to the health or safety of the employee or a member of the employee's family. An employee who does not give advance notice must notify the employer within three (3) work days that leave is being taken pursuant to the DVLA. The notice may be provided by any additional individuals specified in the DVLA.

If an unscheduled absence occurs, the employee has 30 calendar days to produce documentation of the need for leave, in accordance with paragraph E, below.

E. Documentation

Employees taking leave pursuant to the DVLA may be required to provide documentation evidencing that the employee or employee's family member has been a victim of abusive behavior. If requested, an employee is required to provide such documentation within a reasonable period after the request is made. An employee can satisfy this requirement by providing any one of the following documents:

- A protective order issued by a court as a result of abusive behavior against the employee or employee's family member;
- A document under the letterhead of the court, provider or public agency which the employee attended for the purposes of acquiring assistance as it relates to the abusive behavior;
- A police report or statement of a victim or witness provided to police, including a police incident report, documenting the abusive behavior;
- Documentation that the perpetrator of the abusive behavior against the employee or family member of the employee has admitted to sufficient facts in court, or has been convicted of any offense constituting abusive behavior;
- Medical documentation of treatment as a result of the abusive behavior;
- A sworn statement provided by a counselor, social worker, or health care worker who has assisted the employee or the employee's family member; or

- A sworn statement from the employee attesting that the employee has been the victim of abusive behavior.

F. Return to Work

Employees who take leave pursuant to the DVLA will be restored to their original or equivalent position upon return from leave unless circumstances unrelated to the employee's use of leave would have caused a change in employment status. The Town shall not retaliate against an employee for exercising his/her rights under the DVLA.

G. Confidentiality

With limited exceptions set forth by law, information related to the employee's leave shall remain confidential.

DOMESTIC VIOLENCE LEAVE ACT POLICY

This acknowledges that I have received and reviewed the Town of Wellfleet’s Domestic Violence Leave Policy (“Policy”). By signing this form, I agree to abide by the Policy and any Guidelines promulgated there under, and I agree to review periodically any changes or modifications. I recognize that the law and associated Policy regarding use of Domestic Violence Leave are continually evolving. Therefore, I understand that my regular review of this Policy, as it may be amended, is required.

Print Name: _____

Signature: _____

Date: _____

To be included in employee’s personnel file.

6-7 Small Necessities Act (SNLA)

Policy

It is the policy of the Town to provide eligible employees with additional leave for certain family obligations pursuant to state law regarding the Small Necessities Leave Act.

Eligible Employees

Town employees are eligible if they have worked for at least one year, and provided at least 1,250 hours of service during the previous 12-month period.

Eligible Events

Eligible Town employees are entitled to a total of 24 hours of leave during any 12 month period to:

- Participate in school activities directly related to the educational advancement of a son or daughter of the employee, such as parent-teacher conferences or interviewing for a new school;
- Accompany the son or daughter of the employee to routine medical or dental appointments, such as check-ups or vaccinations;
- Accompany an elderly relative of the employee (a person at least 60 years of age, related by blood or marriage to the employee) to routine medical or dental appointments or appointments for other professional services related to the elder's care, such as interviewing at nursing or group homes.

Procedure

If the need for the leave can be foreseen, the employee must give seven days' notice before the leave is to begin. If the need is unforeseeable, the employee must give as much notice as possible under the circumstances. Request Forms are available from the Town Treasurer's Office.

The 24 hours of leave allowed under the SNLA may be used all at once or in lesser increments of time (half hour increments) taken intermittently or on a reduced schedule basis, as arranged in advance with the department head.

A Town employee granted SNLA leave may use accrued personal time, compensation time, or vacation leave. If the employee chooses not to use accrued benefit time, the hours taken will be unpaid. Sick leave shall not be used for SNLA.

Department Heads are responsible for keeping track of the SNLA time used by their employees. The Department Head shall ensure that the *Earnings Worksheet* is documented as SNLA leave.

The Department Head may, but is not required to, request some form of documentation from the employee either before or after the SNLA leave is taken. If there is a question, the Department Head is advised to contact the Town Administrator's Office for clarification.

6-8 Military Training and Active Military Duty

The Town complies with Federal, Commonwealth, and local laws or contractual provisions concerning leave time, compensation, and position protection for Town employees serving in the Military.

6-9 Jury Duty

If a Town employee is called for jury duty, he/she shall be paid the difference between any compensation received for serving on a jury and his/her regular (base) Town pay. Town employees serving on jury duty should make every reasonable attempt to report for work on the days on which they serve on a jury if the occasion arises where they are not kept on jury duty for all of their regular workday. Proof of actual service of jury duty must be presented to the Town employee's supervisor in order for such compensation to be paid.

6-10 Paid Administrative Leave

In rare and unusual circumstances, for example, an investigation of an event of workplace violence or harassment, the Town Administrator may determine that a certain Town employee or employees must be removed from the workplace to assure health and safety in, or proper operation of, the Town's work environment. The employee removal at the Town Administrator orders may be of both the alleged perpetrator and the alleged victim. Under these circumstances, the Town Administrator, in his/her sole discretion, may order a paid administrative leave for a specified period of time for any of the Town employees involved.

C. INSURANCE

6-11 Health Benefits

Any regular, full time or a regular, part time employee of the Town is eligible to join a health insurance plan if he or she is working at least twenty (20) hours per week on a regular schedule and in a regular position. A Town employee is not be eligible for health insurance benefits if he or she is a seasonal or temporary employee (less than 35 weeks per year), or work, on average, less than 20 hours per week.

A new Town employee has 30 days from his/her hire date to join a plan. The employee may join as of the date of hire but would need to pay the employee's share of the premium in advance. Thereafter, the employee may add or change benefits only during the open enrollment period in May or within 30 days of a qualified family status change (qualifying event, marriage, birth, death, divorce, adoption, etc.) during the year.

The Town of Wellfleet offers a menu of group health insurance plan that employees can subscribe to on an individual or family basis (see following page for details). The Town currently pays 65% of a Family, Single Parent/Single Child or Individual plan. The remaining 35% is subtracted, on a pre-tax basis, from your bi-weekly paycheck.

Each of the plans provides a comprehensive set of benefits. Some differences exist between plans and in some cases in terms of the subscriber responsibility to pay

deductibles and co-pays. See the Town Treasurer for a sheet showing the comparison of coverage, co-pays, and deductibles.

If a Town employee is on an approved unpaid leave of absence, his/her health insurance coverage may be maintained through the Town by paying the full monthly premium. Upon termination of employment, an employee may continue coverage for a period of up to eighteen (18) months (or 29 months if disabled) by individually bearing 102% of the total cost of the existing monthly premium, or applying for coverage through the Group Benefits Strategies. See the Town Treasurer for information on COBRA and Connector coverage.

Town employees who do not elect to take the Town's health insurance must fill out the employee Health Insurance Responsibility Disclosure form as required by Massachusetts General Laws.

6-12 Life Insurance

Full time Town employees are eligible for life insurance benefits. The Town pays 50% of the premium for a \$10,000 term life insurance and accidental death policy. Town employees may purchase additional coverage at their own expense. Part time and seasonal Town employees are ineligible for this benefit. Town employees covered by collective bargaining agreements may have additional coverage.

Upon the retirement of a Town employee, the Town will pay 50% of the premium for a \$5,000 term life insurance policy. Retirees are required to pay the other 50%.

6-13 Workers' Compensation

In Massachusetts, the Department of Industrial Accidents (DIA) is responsible for overseeing the Workers' Compensation system. In the rare event that a Town employee is injured on the job, the Town Administrator's Office will assist him or her with the appropriate information and next steps.

D. EMPLOYEE DEVELOPMENT AND TRAINING

6-14 Reimbursement

Unless a program, class, certification, or the like is a requirement of a particular position, the Town, at its sole discretion, may elect to pay for job-related instruction for an employee. Prior written approval to each individual Town employee of any such instruction is required from the Town Administrator.

E. WELLNESS

6-15 Employee Assistance Program

The Town offers all Town employees access to an Employee Assistance Program (EAP) on a self-referral basis through the MIIA Employee Assistance Program. Contact information: 1-800-451-1834. Their website is <http://www.allonehealth.com/miiaeap/>.

F. MUNICIPAL RETIREMENT PLAN

The Town participates in the Barnstable County Municipal Retirement Plan. Questions regarding this benefit should be directed to either the Town Treasurer or the Plan itself.