TOWN OF WEST NEWBURY
PERSONNEL POLICY

The contents of this policy are presented as a matter of information only in order for employees to acquaint themselves with our policies, procedures and benefits. While the Town wholeheartedly supports the plans, policies and procedures contained herein, it is not anticipated that any set of policies, however specific or comprehensive, will provide the correct solution to every problem or situation that might occur in our workplace. The provisions of this policy are not intended to be, and are not to be construed as a contract, or part of any employee's contract of employment. Employment with the Town is "at will". All employment is of indefinite duration, and is terminable at the will of the employee, at any time, with or without reason, and at the will of the Town at any time, with or without reason. No one at the Town, other than the Board of Selectmen, or personnel with statutory authority has the authority to commit to a contract of employment and then only in writing.

We reserve the right to modify, revoke, suspend, terminate or change any or all plans, policies and procedures, in whole or in part, at any time, with or without prior notice. We will try to give advance notice in the event that we find it necessary to change any policy, program or benefit, but cannot guarantee that everyone will receive advance notice of such changes. Any changes which are made will apply retroactively.

The language used in this policy is not intended to create, nor is it to be construed to constitute, a contract between the Town and any one or all of its employees. This policy and the policies, plans and procedures contained herein, supersede all previous personnel policies, plans, and procedures of the Town.

Adopted: August 23, 1999

Revised: Section 5.5 on March 20, 2000

Revised: Per Personnel Committee on December 17, 2008

Revised: Section 7.1 on September 30, 2009

Revised: Sections 5.1.1, 5.1.3 and 7.3 on July 14, 2014

Revised: Appendix D Section 6, Supervisor/Subordinate Fraternization on September 18. 2017

Revised: Updated Appendix E and added Appendix F on May 14, 2018

Revised: Updated Sec. 5.4 Bereavement Leave on April 26, 2021, retroactive to March 1, 2021

Revised: Section 7.1 Holidays Policy, addition of Juneteenth holiday, approved on August 30, 2021

Revised: Section 7.3 Qualified Part-Time Holiday Pay Policy on October 4, 2021

Revised: Section 2.0 Recruitment and Hiring, a new sub-section 2.2.1 Internal Hiring Policy; amendment to Section 4.3 Employee Development and Training; amendment to Appendix A Affirmative Action Plan; all approved on October 4, 2021

Revised: Created new Section 8.0 Compensatory/Overtime/Time Worked Above Budgeted Hours Policy, approved on November 15, 2021

Recorded with the Town Clerk on November 15, 2021

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Section 1.0 General Provisions

1.1 *Authorization*

These policies are promulgated in accordance with the authority granted by the Personnel Bylaw. In the case of a conflict between the provisions of these policies and the provisions of any collective bargaining agreement, the provisions of the collective bargaining agreement shall prevail.

1.2 *Purpose*

The purpose of these policies is to establish a system of personnel administration based on merit principles including, but not limited to: (a) recruitment, selection and classification of employees on the basis of ability, knowledge, education and skill, under fair and open competition; (b) fair and equitable treatment of all applicants and employees in all aspects of the personnel system without regard to age, race, color, creed, gender, sexual orientation, national origin, political affiliation, disability, military service, and with proper regard for privacy and constitutional rights and any other federal or state laws which may apply; (c) retention and advancement of employees based on performance, with recognition of the obligation to make reasonable efforts to assist employees to overcome inadequate performance.

1.3 *Definitions*

The following definitions shall apply:

"Appointing authority," any board or official authorized by General Law, or otherwise, to employ personnel to perform services for the Town.

"Board," the Board of Selectmen of West Newbury.

"Bylaw," the Personnel Bylaw adopted by the Town.

“Department manager," the officer responsible for supervising a department's operations and activities. A department manager may be an appointing authority.

"Exempt employee," an employee whose position is not covered by, or is exempt from, the minimum wage and overtime provisions of the Fair Labor Standards Act.

"Full-time employee," an employee regularly scheduled to work forty (40) hours per week for fifty-two (52) weeks per year. Employees working two or more part-time schedules, which in aggregate total 40 hours per week, shall be treated as full-time employees.

"General Laws," the General Laws of the Commonwealth of Massachusetts.

"Immediate family," an employee's spouse, children, parents, siblings and parents of spouse.

"Non-exempt employee," an employee whose position is subject to the minimum wage and overtime provisions of the Fair Labor Standards Act.

"Part-time employee," an employee whose position is designated to work fewer than forty (40) hours per week.

“Regular employee," an employee who has completed the introductory period successfully.

"Introductory period," the first ninety days of employment for all employees, except police officers. For police officers, the first 12 months of employment shall be the introductory period or as otherwise designated in the collective bargaining agreement.

"Qualified part-time employee," a part-time employee working at least twenty (20) hours per week for 52 weeks per year.

"Temporary employee," an employee whose term of service is defined at the time of hire and is not eligible for benefits.

"Town," the Town of West Newbury.

1.4 *Amendment of Policies*

These policies may be amended as provided in Section 5 of the Bylaw.

1.5 *Personnel Officer*

The Board may, from time to time, designate an employee under its direction to serve as the Personnel Officer for the Town, responsible for administration of the personnel system. The Personnel Officer shall provide assistance and training to appointing authorities and department managers to ensure that recruitment, selection, appointment and retention of employees and benefit administration are conducted in ways that are consistent with the Bylaw and these policies. The Personnel Officer shall supervise the maintenance of a personnel record keeping system. The Personnel Officer shall bring to the Board's attention issues or matters requiring their attention in the administration of these policies.

1.6 *Personnel Records*

The Board shall maintain records, including the job descriptions for all positions, the Affirmative Action Plan and required reports, as provided in Appendix A, and rosters of employees laid off or released from employment because of disability.

Each department shall maintain records of recruitment and hiring as provided in Section 2.

Each department will maintain records relating to each employee's tenure of service, including performance evaluations, letters of commendation received, training and certifications, and disciplinary action for each employee. Any record which contains personal medical information shall be retained in a separate confidential file, access to which shall be limited to those individuals who have a critical need for the information.

Within five business days of the request, employees are entitled to examine and or have a copy

of the contents of their individual personnel files. No confidential information shall be released or disclosed to any third party without written authorization from the employee.

Each department shall maintain attendance records for all employees. These records will include, for each employee, the following: hours of regular pay; hours of overtime pay; hours and type of paid leave, available and taken; and hours and type of authorized unpaid leave taken. Department managers shall prepare a report of attendance and leave every ninety days which shall be submitted to the appointing authority or Board.

Adopted: August 23, 1999

Revised: September 30, 2009

Section 2.0 Recruitment and Hiring

2.1 Recruitment of prospective employees shall be conducted in a non-discriminatory manner and in accordance with the Town's Affirmative Action Plan, which is attached as Appendix A to these policies.

2.2 With the approval of the appointing authority, a department manager seeking to fill a position shall post a notice of vacancy for the position. The notice will include the job title, initial rate of pay or pay range, summary statement of duties, minimum qualifications relating to education, skills, or experience, directions for submitting applications, and deadline for receipt of applications. Deadline for receipt of applications will be no sooner than ten (10) days after posting. The notice will be posted in the Town Office Building, in the department's work area if its office is not in the Town Office Building and will be sent to the Haverhill office of the Massachusetts Department of Unemployment Assistance (DUA).

2.2.1 *Internal Hiring Policy*

Current Town employees are encouraged to apply for open positions and will be given prior notice before recruiting externally. This will be accomplished by posting the notice internally for five days prior to advertising or posting externally. Any interested employee should notify the department manager of their interest. If an employee has the stated minimum qualifications or ability to be trained to perform the duties without unduly burdening the department, they will be formally interviewed and given full consideration.

2.3 Employment advertising may be used in order to generate an expanded pool of applicants and encourage equal opportunity employment.

2.4 In emergency situations, temporary employees may be hired for a period not to exceed 30 days without posting or advertisement of the vacancy.

2.5 All applicants for employment will complete an official employment application form which shall be retained by the appointing authority. The form will include a statement signed by the applicant certifying to the truthfulness and accuracy of all information provided on the form. An employee who is found to have falsified his or her employment application may be subject to termination.

2.6 Appointing authorities will review applications from candidates and make their selection based on qualifications, including successful completion of any examination that measures ability to perform the essential functions of the job and receipt of satisfactory references from prior employers, supervisors or others.

2.7 Offers of employment to prospective uniformed members of the police and fire departments shall be conditional upon the candidate successfully passing medical and physical fitness examinations conducted at the Town's expense to determine whether the candidate is able to perform the essential functions of the position. Examinations conducted under this section shall

be by personnel who are knowledgeable about the physical demands of the position and are professionally trained to make the individualized assessments of applicants' abilities to meet those demands.

Offers of employment to prospective employees whose positions require a commercial driver's license shall be conditional upon the candidate passing a pre-employment drug test, as provided in the Town's Commercial Driver's License Alcohol and Drug Testing Policy, attached as Appendix C.

2.8 Accepted offers of employment will be confirmed in writing to the selected applicant, including starting date and hours of work, initial salary or rate of pay, and indicating whether the position is part-time or full-time, temporary or regular, and exempt or non-exempt.

Adopted: August 23, 1999

Revised: Section 2.2.1 on October 4, 2021

Section 3.0 Approval of Employment Application (Introductory Period) and Seniority

The first ninety (90) days of service shall constitute an Introductory period. During such period, employees will be observed and evaluated concerning their compliance with Town policies, instructions, performance, and conduct. At any time during the ninety-day period the Town may decide to discontinue employment. If the employee has successfully completed this Introductory period, seniority and other benefits will accrue from the first day of employment. Introductory employees may not take vacation leave but may begin to accrue vacation time and will receive credit for the 90 days upon completion of the introductory period. Successful completion of this period does not alter the employment at will relationship.

The department manager shall notify the employee in writing of the evaluation and whether the employee's performance is satisfactory or unsatisfactory and, if unsatisfactory, what action is recommended to be taken by the appointing authority.

Continuous Service is considered to have begun from the date of employment and shall include authorized absence or leave pursuant to applicable provisions of the FMLA, MMLA and Military Leave Policies.

Adopted: August 23, 1999

Section 4.0 Performance Evaluation; Classification and Compensation Plans; Employee Development and Training

4.1 *Performance evaluation*

During the introductory period, the job performance of newly hired employees will be evaluated as provided in Section 3.0.

The job performance of all regular employees will be evaluated at least once each fiscal year by the immediate supervisor. The Board will develop and distribute forms to be used for this purpose to assess the quantity and quality of performance of job duties, attendance, attitude and other relevant performance measures. Employees shall be provided the opportunity to read and file comments on their evaluations. Evaluations shall be maintained as confidential personnel records which may be disclosed only in connection with personnel actions concerning the employee.

4.2 *Classification and compensation plans*

The Board has adopted a uniform system for the classification of positions to establish proper relationships between positions, based on the level of responsibilities assumed and the minimum qualifications required to perform the job so that the same schedule of compensation may be applied to each class, ensuring equal pay for equal work.

The Board may adopt a compensation plan to reward and retain qualified employees by providing merit incentives linked to performance. The compensation plan will take into consideration the relative responsibilities of positions as set forth in job descriptions, wage rates paid for comparable positions in comparable communities and in the private sector, wage rates paid under collective bargaining agreements, economic conditions in the general labor market, and the Town's fiscal policies. The plan shall be reviewed and revised from time to time in order to maintain a fair and equitable compensation system for the Town.

4.3 *Employee development and training*

The Board shall foster and promote programs of training for employees when appropriate to improve the quality of services provided by the Town and to help employees develop skills needed for career development. Appointing authorities and department managers shall identify effective sources of training and provide resources to allow designated employees to pursue training opportunities. Town employees interested in transferring to other departments or promotions within their current department should be encouraged to seek training and professional development that will make them eligible for consideration when such openings arise.

Adopted: August 23, 1999

Revised: Section 4.3 on October 4, 2021

Section 5.0 Authorized Leaves

5.1 *Vacation*

5.1.1 The Town of West Newbury believes it is healthy and important for employees to take advantage of time off work so they are encouraged to use the full vacation allowance available. As an incentive to use all vacation days, the Town has adopted a use it or lose it policy, where unused vacation days cannot be carried beyond the days specified in this policy.

Regular employees who have completed at least ninety days (90), but fewer than five years, of continuous service shall be entitled to 10 days of vacation with pay each fiscal year. Vacation is accrued at .833 days per month.

Regular employees who have completed at least five, but fewer than 10, years of continuous service shall be entitled to 15 days of vacation with pay each fiscal year. Vacation is accrued at 1.25 days per month.

Regular employees who have completed at least 10, but fewer than 20, years of continuous service shall be entitled to 20 days of vacation with pay each fiscal year. Vacation is accrued at 1.66 days per month.

Regular employees who have completed at least 20 years of continuous service shall be entitled to 25 days of vacation with pay each fiscal year. Vacation is accrued at 2.08 days per month.

For the purpose of this section, years of continuous service shall be calculated from anniversary of employment. Vacation days will be added at the rate of one day per month starting at the anniversary month of completed year which changes the accrual rate.

5.1.2 Qualified part-time employees shall be entitled to vacation leave with pay on a pro-rated basis based on their regularly scheduled weekly hours.

5.1.3 Requests for vacation must be approved by the department manager or appointing authority. Vacation leave shall be taken within 120 calendar days following the end of the fiscal year in which it is first available,

5.1.4 Employees who have exhausted all their sick leave benefits may, with the approval of the department manager, or appointing authority, have their absence charged to vacation.

5.1.5 Upon termination employees are eligible for payment for unused vacation time. In the event of a death, the payment will be made pursuant to the laws of Massachusetts.

5.1.6 Employees who return to work after layoff will be credited with the amount of their

previous service for purposes of calculating their vacation eligibility under Section 5.1.1

5.2 *Sick leave*

5.2.1 Full-time and qualified part-time employees shall accrue sick leave at the rate of .833 days per completed month**.** Unused sick leave may accumulate from year to year to a maximum accumulation of 120 days.

5.2.2 Sick leave may be granted for absence required by the employee's serious illness or injury, or for the care required for the employee's immediate family, as provided in Section 6.0 of these policies. Sick days are not payable upon termination.

5.2.3 An employee requesting sick leave must notify the department manager, or appointing authority, as early as possible on the first day of absence from work. The department manager may require a physician's certification of the employee's inability to work, if the absence is of three days or more duration, or if there is a series of repeated absences over the prior year.

5.2.4 The Town of West Newbury's Sick Time Pool for Catastrophic Illness Policy affords certain regular employees facing life threatening illness access to paid sick time donated by others after meeting specific criteria. Participation and/or utilization do not imply promise of continued employment. The program is subject to availability and terms and conditions are subject to change without notice.

Donation Guidelines:

1. Participation in the program is voluntary and confidential.
2. Participants must be full-time or part time regular employees who are benefits eligible.
3. The employee (donor) must be in good standing; that is, not on disciplinary action, warning status or probation within the past 90 days.
4. A maximum of 10 8-hour days may be donated by a full-time employee, with the maximum donation by a part-time employee being pro-rated, based on hours regularly scheduled to work per week.
5. A minimum of 20 sick day balance must remain after the donation.
6. Donations must be in whole days (that is, 8-hour increments) – The donations of part-time employees will be rounded up to whole day increments.
7. Time cannot be returned once donated.
8. Employees cannot designate specific recipients to be awarded days from the pool.
9. Employees are not informed of who utilizes the pool.

10. Donations to the pool will be anonymous.

11. Upon voluntary termination employees may donate a maximum of 10 days to the pool.

Minimum Recipient Eligibility Requirements:

1. The employee must have a life threatening medical condition certified by a physician, which causes an employee to be unable to perform his/her job.

2. The medical condition must not be the result of an illegal act and must not be covered by workers' compensation, short-term disability or long-term disability insurance.

3. The employee must have a minimum of two years of service and must be employed as an active, regular full time or regular part time benefits eligible employee.

4. The employee must be in good standing; that is, not on disciplinary action, warning status or probation within the past 90 days.

5. The employee must submit a signed application accompanied by the attending physician's certification.

6. The employee must have exhausted all accrued sick time, vacation and personal days prior to eligibility.

7. The employee must agree to, and cooperate with, the Selectmen's review.

8. Meeting the minimum requirements set forth above does not guarantee receipt of donated paid sick time. Selectmen's decisions are final.

5.3 *Worker's Compensation*

In accordance with General Laws, c. 149, §69, employees who are incapacitated from working due to injuries arising out of, and in the course of employment, may apply sick leave to supplement disability benefits received because of such injuries so they may continue to receive their full salary or wages while disabled.

5.4 *Bereavement leave*

Bereavement leave will be granted by the Town Manager to any employee to enable him or her to take care of matters caused by the death of a member of his or her immediate family. Three days of pay will be granted for immediate family members which includes: mother, father, brother, sister, child, spouse/domestic partner, grandparent, grandchild, step-parent, step-sibling, step-child, parent-in-law, and sibling-in-law. Compensation for part-time employees shall be based on the employee's regular compensation for scheduled hours for which he or she is absent.

5.5 *Military leave*

All regular full-time and part-time employees who are members of the ready reserve of the armed forces shall be granted leave not exceeding 17 days per calendar year, in order to receive military training. At least 60 days prior to departure, employees shall provide notice of the date of departure and date of return and shall provide confirmation of the satisfactory completion of such training upon his or her return to work.

Absence from work for military training as provided in this section shall not affect the employee's right to receive normal vacation, sick leave or other employment benefits.

Employees will be eligible to receive the difference between their regular wages or salary and military pay for no more than seventeen working days per fiscal year.

5.6 *Maternity leave*

A female employee, not eligible for leave under the provisions of the Family and Medical Leave Act of 1993, but who has been employed by the Town for at least ninety (90) days as a full-time employee, shall be entitled to leave for a period not exceeding eight weeks for the purpose of giving birth or for adopting a child under the age of 18, or under 23 if the child is mentally or physically handicapped. In order to be eligible for leave under this section, the employee is required to give two weeks' notice in advance of the anticipated date of departure, stating her intention to return and anticipated date of return. Upon her return to work, the employee is entitled to be restored to her previous position, or to a similar position which has the same status and pay as her previous position, and to the length of service credit and seniority as of the date of her leave. Qualified part-time employees are also eligible for leave under this section. Leave under this section shall be unpaid, unless the employee is eligible to apply other leave, such as sick leave or vacation to which she is entitled.

5.7 *Jury Duty leave*

Employees shall be granted leave when called for jury duty and shall be paid their regular wages for the first three days, or part thereof, of jury service. Employees will be paid the difference between their regular wages and the amount paid by the court, provided employees present evidence of compensation received from the court to the Town Accountant. Employees are required to report for work while on jury service if released before the end of the regular work day.

5.8 *Unpaid Leaves of Absences*

5.8.1 *Religious Observances*

Department managers may grant employees leave for the personal observance of an employee's religious holidays. Employees must provide a reasonable amount of advance notice, which shall normally be ten days, to the department manager, or appointing authority. Non-exempt employees may take such leave as unpaid leave, charge the time to vacation or, with the approval of the department manager or appointing authority,

schedule additional hours of work to compensate for the time lost.

5.8.2 *Other Unpaid Leaves of Absences*

Upon written request and receipt of requested documentation, a department manager may approve an unpaid leave up to a maximum of 30 days. Any leave request exceeding 30 days will require the approval of the Board or other designee. An employee will not accrue any benefits during this leave but will remain on health insurance at the same contribution level. If leave is granted for more than thirty days, health insurance may still be available, but at full cost to the employee. An employee who fails to return to work upon the expiration of the approved leave will be deemed as having resigned from his or her position and employment.

5.9 *Personal leave*

Full-time and qualified part-time employees will be granted one (1) day of leave with pay each fiscal year for the purpose of attending to personal business which unavoidably conflicts with the employee's work schedule or to observe religious holidays. Employees must provide a reasonable amount of advance notice, which shall normally be two days, to the department manager, or appointing authority.

Adopted: August 23, 1999

Revised: Section 5.5 "Military Leave" amended by vote of the Board of Selectmen on March 20, 2000, following a Public Hearing conducted on March 13, 2000.

Revised: September 30, 2009

Revised: Section 5.1.1 and 5.1.3 by Board of Selectmen July 14, 2014

Section 6.0 Family and Medical Leave

It is the policy of the Town to grant up to twelve (12) weeks of family and medical leave during any twelve (12) month period to eligible employees, in accordance with the Family and Medical Leave Act of 1993 (FMLA) and up to twenty-six (26) weeks of leave in any twelve (12) month period in compliance with the expansion of FMLA under The Support for Injured Service Members Act of 2007. The leave may be paid, unpaid or a combination of paid and unpaid leave, depending on the circumstances of the leave and as specified in this policy.

6.1 *Definitions*

The following definitions shall apply to this section:

"Health care provider," a doctor of medicine or osteopathy authorized to practice within the located state, or any person determined by the Secretary of Labor, or others capable of providing health care services as defined by the Department of Labor Family and Medical Leave Act rules.

"Intermittent leave," time away from the job taken in separate blocks of time due to a single illness or injury.

"Reduced leave schedule," a reduction in the number of hours per work day or work week.

"Serious health condition," an illness, injury, impairment or physical or mental condition that involves:

a. incapacity or treatment as an inpatient in a hospital, hospice or residential medical care facility; or

b. incapacity requiring absence from work or other activities for more than three (3) calendar days and involves continuing treatment of a health care provider; or

c. continuing treatment by a health care provider for a chronic or long-term health condition which is incurable or if left untreated would result in incapacity for more than three (3) calendar days.

"Twelve-month period," a "rolling" period measured forward from the date an employee uses any family and medical leave.

6.2 *Eligibility*

Employees who have completed at least 12 months of employment with the Town and who have worked at least 1,250 hours during the preceding 12 months.

6.3 *Policy*

Eligible employees will be granted a leave for up to 12 weeks during any 12-month period for:

a. family leave due to the birth, adoption or placement of a child (foster care);

b. medical leave due to an employee's serious health condition; this leave may extend up to twenty-six (26) weeks in a 12-month period for an employee whose spouse, son, daughter, parent or next of kin is injured or recovering from an injury suffered while on active military duty and who is unable to perform the duties of the service member's office, grade, rank or rating;

c. medical leave due to an employee's care of a spouse, child or parent who has a serious health condition;

d. a covered family member's active duty or call to active duty in the Armed Forces or

e. to care for an injured or ill service member.

6.4 *Notice requirements*

At least 30 days in advance, the employee shall submit to the department manager or appointing authority, if there is no department manager, a written notice of his or her intent to take family or medical leave and the dates and expected duration of the leave. If 30 days' notice is not possible, the employee shall give notice as soon as practicable.

6.5 *Certification requirement*

6.5.1 In connection with family leave, employees shall, upon request by the department manager or appointing authority, provide proof of birth, adoption or placement of a child.

6.5.2 In connection with medical leave, employees shall, upon request by the department manager or appointing authority, provide medical certification which shall include:

a. In the case of the employee's illness, a statement by the health care provider on letterhead listing the provider's address and telephone number, that the provider has personally examined the employee, identification of the serious medical condition unless it is confidential in nature with date of onset and probable duration and stating that the employee is unable to perform his or her duties due to the specific illness or injury on the days in question.

b. In the case of care for a spouse, child or parent, a statement by the health care provider on letterhead listing the provider's address and telephone number, that the spouse, child or parent has been determined to be seriously ill and needing care on the days in question.

6.5.3 Employees must provide certifications requested under this section within fifteen (15) days of being asked to do so.

6.5.4 An appointing authority may require, at the Town's expense, a second opinion from a health care provider designated by the Town. If there is a conflict between the second opinion and the original medical certification, the appointing authority may seek a third opinion, at the Town's expense, from a health care provider designated or approved by both the Town and the employee.

6.5.5 Employees may be required to provide recertification, including the employee's affirmative commitment to returning to work and anticipated date of return after each 30-day period of medical leave, or at shorter intervals if the employee requests an extension of leave; if there are significant changes from the original certification circumstances; or if the Town receives information which casts doubt on the validity of the certification.

6.6 *Intermittent and reduced leave schedule*

Employees may request medical leave on an intermittent leave, or on a reduced leave schedule, if medically necessary or if necessary to provide care for a family member. Employees must provide certifications requested under this section within fifteen (15) days of being asked to do so. When such leave is approved, every effort shall be made to meet the employee's needs without unduly disrupting the Town's operations.

6.7 *Compensation and benefits*

6.7.1 Leave under this section shall be unpaid, unless an employee applies other paid benefits leave that may be available, such as vacation leave or sick leave. Use of such paid leave will not extend the total length of leave time available under this section beyond 12 weeks in a 12-month period.

6.7.2 Employees who are on family or medical leave shall not be eligible for any holiday pay or other compensation for any holidays which occur during the leave.

6.7.3 During the time an employee is on unpaid family or medical leave, the employee shall be entitled to group health insurance coverage on the same terms and conditions in effect at the time the leave began, provided the employee pays the required employee share of premium while on leave. If the employee fails to return to work from unpaid leave, the Town may recover from the employee the cost incurred in maintaining insurance coverage for the duration of the employee's leave.

6.8 *Reemployment rights*

At the expiration of family or medical leave, the employee will be returned to the same or equivalent position with the same status, pay and length of service as of the start of the leave. If, during the period of the leave, employees in an equivalent position have been laid off through no fault of their own, the employee will be extended the same rights or benefits, if any, extended to employees of equal length of service in the equivalent position in the department.

6.9 *Coordination with maternity leave*

Leave taken under Section 5.6 shall be deemed family and medical leave so that the total amount of leave shall not exceed 12 weeks in a 12-month period.

6.10 *Family business leave*

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

Section 7.0 Holidays

7.1 The following holidays shall be observed by the Town.

New Year's Day	Independence Day
Martin Luther King Day	Labor Day
Presidents' Day	Columbus Day
Patriots' Day	Veterans' Day
Memorial Day	Thanksgiving Day
Juneteenth	Christmas Day

7.2 Regular full-time employees will be excused from working on the holidays without loss of pay.

7.3 Qualified part-time employees will be excused from working on holidays which fall on or are observed on days they are regularly scheduled to work without loss of pay.

7.4 Temporary employees and part-time employees who do not have an established work schedule, or whose regular schedule does not include the day on which a holiday falls or is observed, will not be eligible for holiday pay.

7.5 Non-exempt employees who are required to work on a holiday will be compensated for the hours worked at a rate of pay equal to one and one-half times their regular hourly rate, in addition to their regular pay for the day.

Revised: Section 7.1 on September 30, 2009

Revised: Section 7.3 on July 14, 2014

Revised: Section 7.1 on August 30, 2021

Revised: Section 7.3 on October 4, 2021

Section 8.0 Compensatory/Overtime/Time Worked Above Budgeted Hours Policy

8.1 Applicability

This section 7.0 is not applicable to union employees, Fire department personnel, or Emergency Management personnel.

8.2 Exempt Employees

Employees holding exempt positions are never entitled to overtime pay. Generally, employees holding exempt positions are not entitled or allowed to use or accrue compensatory time. Rather, it is expected and understood that professional positions often require more than 9 hours in one day or 40 hours in one week.

The sole exception to this prohibition is that in unusual circumstances, when pre-approved by the Town Manager in writing an exempt employee may request the accrual of a limited amount of earned time. In this situation, earned time shall be accrued on an hour for hour basis.

Use of earned time by exempt employees is strictly subject to the written approval of the Town Manager. Exempt employees are never, no matter the circumstances, entitled to payment for any accrued and unused earned time. Any earned time earned must be used within 60 days of accrual.

The reason it is rare that earned time accrual will be approved is that it is expected and understood that professionals will dedicate the number of hours necessary to succeed at their position. As professionals, it is expected that there will be no earned time requests for things like attending night meetings or working late during busy times. As professionals however, and in the interest of preventing employee burnout, where the hours of work required exceed the "normal" work week due to night/weekend meetings, special projects, DPW winter operations, etc., and said hours are documented, you would be eligible to receive earned time off at the discretion of the Town Manager.

8.3 **Overtime, Overtime Pay and Compensatory Time**

Non-Exempt Employees Only

This portion of the policy solely applies to non-exempt (hourly) employees.

Overtime is the term given to hours worked beyond 40 hours in one work week. Overtime hours are compensated either monetarily (pay) or in compensatory time off, both at the one-and-one-half time rate for each hour over 40.

8.3.1 Overtime.

The granting of overtime is contingent upon an existing need, usually temporary, such as additional workload, special projects or events, or to cover the absence of another employee. Working additional hours for the purpose of receiving additional pay or accruing

extra compensatory time off for future use is prohibited and creates an unnecessary fiscal obligation for departments.

Overtime is reached once an employee has actually worked beyond the 40-hour maximum allowable hours in a given workweek. Compensation for overtime hours must be paid at the one-and-one-half time rate to non-exempt employees for any hours worked in excess of 40 hours in any given week. The Town Manager is responsible for oversight of overtime for non-union employees, consistent with appropriated funds. Overtime must be authorized in advance by the Town Manager.

8.3.2 Overtime Hours.

In determining whether an employee has worked any overtime, only those hours actually worked will be considered. This is not the same as "in-pay status" which includes all paid leave hours, no matter the type.

An instance of "in-pay status" as opposed to overtime status is the scenario where the number of hours worked is less than or equal to 40, but when added to leave time taken becomes greater than 40. In this case, the extra hours are termed "additional" and are to be paid at the regular annualized rate of pay. To avoid placing an employee into an overtime situation, an employer can plan in advance to change the employee's work schedule.

8.3.3 Overtime Pay.

Payment for overtime worked will be at one and one-half times the employee's regular rate of pay.

8.3.4 Compensatory Time.

Compensatory time is an alternative method of overtime compensation for hours worked over 40 for non-exempt employees. As such, it must be approved in advance as overtime. The same overtime principles apply: Working extra hours in order to accrue compensatory time off for future use is prohibited.

In lieu of paying a non-exempt employee for overtime worked, employees may be granted compensatory time off at the rate of one and one-half hours off for each hour of overtime worked, at some time after the workweek in which the overtime was worked if the following conditions are met:

a. The employer reaches an agreement with the employee to accept compensatory time off in lieu of overtime pay prior to the performance of the overtime worked. The same agreement does not have to be reached with each employee.

b. The employee knowingly and voluntarily agrees to accept compensatory time.

Employees who have requested the use of compensatory time will be permitted to use such time within a reasonable period after making the request if use of the time does not unduly disrupt the operations of the department. Mere inconvenience to a department is insufficient reason to deny an employee's request to use compensatory time. Likewise, each employee who has accrued compensatory time off may be required to use the compensatory time within a reasonable period after receiving notice to do so. The notice will include the length of time in which a specified number of hours of compensatory time are to be used.

8.4 **Time Worked Above Budgeted Hours**

Non-Exempt Employees Only

If the work demands of a non-exempt position exceed budgeted hours within a given pay period, the affected employee may request advance Town Manager approval to work more hours than are budgeted.

The approval to work hours above budgeted is contingent upon an existing need, usually temporary, such as additional workload, special projects or events, or to cover the absence of another employee. Working additional hours for the purpose of receiving additional pay is prohibited and creates an unnecessary fiscal obligation for departments.

Within the Town Manager's consideration of the request, discussion will take place with the affected employee, including (if/as appropriate) the primary Board or Commission to which the employee provides direct support. Discussion will consider what factors are driving the workload above budgeted hours, and whether the best answer is to increase hours (with the employee's specific agreement), or to somehow reduce workload.

Avoiding a situation where the employee's actual pay exceeds what is budgeted could include reducing hours worked in future weeks, to offset any overage; or increasing the budgeted expense line (whether by budget amendment or by approved Reserve Fund or Line-Item transfer) to cover the actual hours/cost, if necessary. In either case, advance approval by the Town Manager is required for hours worked above the budgeted hours.

Adopted: November 15, 2021

Section 9.0 Travel Reimbursement

9.1 *Policy*

Employees and elected officials shall be reimbursed for mileage, meals and lodging expenses incurred while engaged in Town business.

9.2 *Procedure*

a. *Mileage*

Employees shall submit requests for reimbursement to department managers at such intervals and with such supporting documentation as the department manager may require. The rate of reimbursement shall be that allowed currently by the Internal Revenue Service.

b. *Meals and lodging*

Employees shall obtain prior approval of the Board, or appointing authority, before incurring expenses in connection with a trip on Town business. Requests for reimbursement shall be made within two (2) weeks of the completion of the trip and shall include receipts documenting the expenses. In the event that receipts are not available, the employee shall provide a signed explanation of the expenses.

Section 9.0 Disciplinary Action

10.1 Disciplinary action may be imposed upon an employee for misconduct or failure to fulfill his or her responsibilities as an employee. Specific grounds for disciplinary action include, but are not limited to, the following:

a. Chronic tardiness or absenteeism.

b. Incompetence, inefficiency, dishonesty or recklessness in performing assigned duties.

c. Refusal or inability to meet performance standards or to comply with the instructions or direct orders from a supervisor.

d. Possession or use of alcohol or controlled substances during working hours or reporting to work under the influence of alcohol or controlled substances.

e. Unauthorized absence from work.

f. Falsification of records, including application for employment, and obtaining sick, injury or bereavement leave under false pretenses.

g. Conducting or engaging in any business activity that conflicts, or gives the appearance of a conflict, with Town employment.

h. Abusive or threatening language or conduct towards the public or a fellow employee, including insubordinate conduct towards a supervisor, department manager or another Town official.

i. Violation of Town's sexual harassment policy

j. Willful misuse, misappropriation, destruction, theft or conversion to personal use of Town property, materials, equipment or funds.

k. Disclosure of confidential information acquired in the course of employment.

l. Conduct which violates General Laws, c. 268A. (Conflict of Interest)

m. Engaging in political activity, or conducting private business, during working hours.

n. Carrying firearms without authorization by the Town during working hours.

o. Violating Town policies.

p. Conviction of a felony.

10.2 The degree of discipline imposed shall be commensurate in the judgment of the appointing authority with the severity of the offense and prior work and disciplinary history of the employee. Disciplinary action may include the following actions, as appropriate, in individual situations and circumstances. We reserve the right to terminate any employee for unacceptable

conduct without the progression of discipline set out below.

10.2.1 *Oral warning*

A department manager may issue an oral warning to an employee when he or she has observed, or otherwise become aware of, unacceptable conduct. The warning shall be issued in a private setting away from other employees or the public. The reasons for the warning will be stated to the employee. A record of the oral warning will be made in the employee's personnel file maintained by the department.

10.2.2 *Written warning*

If an oral warning has failed to correct the unacceptable conduct, or where the conduct merits more serious initial action, the department manager may issue a written warning to the employee. The reasons for the warning will be stated with the required change in conduct or behavior. A copy of the written warning will be placed in the employee's personnel file maintained by the department.

10.2.3 *Disciplinary probation*

If a warning, or warnings, fail to correct unsatisfactory job performance, or other unacceptable conduct, the employee may be placed on a disciplinary probation period not to exceed thirty days, at the direction of the department manager, with the approval of the appointing authority. The employee will receive a written notice at least three days prior to the commencement of the probationary period stating the reasons for the probation, and the standards by which satisfactory completion of the probation will be determined. Upon conclusion of the probationary period, the department manager will notify the employee and appointing authority whether he or she recommends the employee be retained or terminated from employment.

10.2.4. *Suspension*

An employee may be suspended without pay for a period not to exceed 45 days without pay by his or her department manager, with the approval of the appointing authority. The employee will be given written notice of the reason for the suspension and the length of the suspension. Notice will be given three (3) days prior to the commencement date, unless the suspension is for such serious conduct that it is in the best interest of the Town that it begins forthwith, in which case notice will follow within three (3) days.

10.2.5 *Demotion or discharge*

A regular employee may be demoted to a position of lower rank, or dismissed, for unsatisfactory job performance, violation of Town regulations including these policies, or after the exhaustion of other disciplinary measures.

Section 11.0 Grievance Procedure

Under normal conditions, if, as an employee, you feel dissatisfied with some aspect of your conditions of employment, i.e. treatment, working conditions, warnings, termination, etc., you are encouraged to discuss the matter with your immediate Supervisor. If you and your Supervisor are unable to resolve the issue or if you are not satisfied with the Supervisor's response, then you may discuss your job-related problem, question or complaint with your Department Manager.

Should you and these individuals not come to agreement, you may put your grievance in writing and submit it to the Board of Selectman which will make a final determination.

We will endeavor to resolve complaints within a reasonable amount of time.

Any employee who has completed the introductory period and who believes that he or she has cause to challenge the administration of these policies or other condition of employment may seek review of his or her complaint. A complaint must first be brought to the attention of the employee's direct supervisor within 14 days of knowledge of the incident or circumstance giving rise to the potential dispute. The result of the discussion must be noted in writing. If the employee is not satisfied with the results of the discussion with the supervisor, he or she may submit the complaint in writing to the department manager or appointing authority within 30 days. If not submitted, the matter will be considered closed.

If there is no resolution upon review by the department manager, the employee may refer the complaint (in writing) to the Board within 30 days. If not submitted, the matter will be considered closed. The Board will conduct an investigation into the facts alleged in the complaint and will meet with the employee. The Board will make every effort to resolve the grievance promptly and fairly. If the Board is unable to resolve the grievance to the employee's satisfaction within fourteen (14) days of meeting with the employee, the Board will provide the employee with a written statement of its position within an additional seven (7) days.

If submitting the complaint to the Board (already designated as the third step) presents a conflict because the issue involves a dispute between an employee and the Board or a Board member, the Grievance shall be brought before a 3-member panel made up of one party chosen by the Board, one party chosen by the employee from the work force (other than a family relative or person from the employee's same department), and one other party mutually agreed upon by the Board and the employee. The panel will issue an opinion on the validity of the grievance within 14 days, together with any recommendations to end the disagreement.

APPENDIX A

Affirmative Action Plan

Commitment to Equal Opportunity in Employment

It shall be the policy of the Town of West Newbury not to discriminate against any applicant for employment, or any employee, on the basis of race, color, national origin, religion, gender, sexual orientation, age, or physical/mental handicap, military/veteran status or any other characteristic or status of individual protected from discrimination under state or federal law, with regard to recruitment, selection and placement, rate of pay, promotion and transfer, disciplinary measures, layoffs and terminations, working conditions, testing and training, and compensation and benefits.

The Town of West Newbury recognizes its obligations to administer actively and aggressively an Equal Employment and Affirmative Action Program, to investigate and initiate changes in any discriminatory employment practices or patterns, and to provide positive benefits to the Town of West Newbury by more fully utilizing and developing the potential of all current employees and by expanding opportunities to a greater number of potential employees.

The Town of West Newbury will provide equal access to its services, programs and facilities without regard of race, color, national origin, religion, gender, sexual orientation, age, or physical/mental handicap, military/veteran status or any other characteristic or status of individual protected from discrimination under state or federal law.

The Town of West Newbury will only purchase goods and services from agencies or companies which have established policies of non-discrimination in employment or are willing to establish such a policy. All consultants to the Town of West Newbury will be required to insert an equal opportunity clause in their contract with the Town.

Purpose of the Affirmative Action Program

The Town of West Newbury shall not underutilize minorities or females.

Minority and female employees shall have upward mobility within the structure of the Town of West Newbury.

The Town of West Newbury shall take affirmative action steps to recruit minorities and females for positions within the Town Government.

Dissemination of the Program

This Equal Opportunity Policy and Affirmative Action Plan shall be posted in a conspicuous place in the Office of the Board of Selectmen. All advertisements and job announcements shall state that the Town of West Newbury is an equal opportunity employer, and that all qualified applicants will receive consideration for employment, without regard to race, color, national origin, religion, gender, sexual

orientation, age, or physical/mental handicap, military/veteran status or any other characteristic or status of individual protected from discrimination under state or federal law.

Responsibilities for Affirmative Action

The Chair of the Board of Selectmen shall serve as Equal Employment Opportunity (EEO) Officer and be responsible for administering the Equal Opportunity Policy and Affirmative Action Plan. The Selectmen may appoint an employee of the Town of West Newbury as Equal Opportunity Administrator (EOA) who will be responsible for executing the program, coordinating policy matters, developing and/or strengthening lines of communication between the Town of West Newbury and the target populations and in achieving compliance with policy, law and regulations.

The Board of Selectmen shall keep confidential any information or data relating to a specifically named individual, any disclosure of which may constitute an invasion of personal privacy and any other records that are not "public records" as defined in Chapter 1050 of the Acts of 1973, as amended [M.G.L. c. 4, §7 (26)].

The EEO Officer shall directly inform appropriate organizations, community agencies, community and civic leaders, social groups and other potential recruitment sources of job openings as an employee of the Town of West Newbury.

The Town of West Newbury will identify those jobs which are basically the same, although compensated at different rates, in order to achieve equal pay for equal work.

All personnel who are involved in interviewing prospective employees and who are in any way involved in the selection process shall consult with the EEO Officer to assure compliance with the Affirmative Action Plan.

The Affirmative Action Program

The EEO Officer shall gather and analyze data of the Town of West Newbury employees on minority and female employment composition and with reference to overall goals, identify any under-utilization of minority employees, female employees and non-job-related prerequisites & deficiencies in compensation. If the Town of West Newbury is underutilizing minorities and females, or if deficiencies in compensation exist, the Town of West Newbury will develop a specific program to correct any such deficiencies.

The data gathered by the EEO Officer for review and revision shall include the following information:

- Names of personnel involved in hiring and promotion
- Job classification
- Compensation rates for each classification
- Existing job description for each classification

- An updated job description, if the existing one does not correspond to the work actually done
- Vocational qualifications of persons holding the positions
- Pension, tenure and other prerequisites attached to the job
- Criteria for promotion
- Criteria for demotion, termination, discharge, layoff, disciplinary action
- The number and/or names of minority and female employees by classification
- Explanation of hiring procedures, including recruitment and advertising sources
- Lists of all positions which were open or were created during the previous year
- Approximate number of people applying for jobs
- Names and addresses of minority and female applicants
- Promotions made during the previous six months
- Names of minority and female employees passed over for promotion
- Names of persons receiving promotions

Corrective and Affirmative Actions

From the analysis of the statistical data, any deficiencies in female and minority employment will be identified and corrected. Corrective actions to overcome their deficiencies will include:

1. *Recruiting*

   When a new position is created, or an existing position becomes vacant (except in the case of emergency), the position will be announced by:

   a. Advertising in newspapers which serve the largest number of minorities.

   b. Posting at appropriate organizations, agencies, schools and social groups which serve females and minorities.

   c. Notifying the Massachusetts Department of Unemployment Assistance (DUA).

2. *Training*

   The Town of West Newbury will make maximum use of sub-professional internships and training programs to help equalize opportunities for minority persons and females, particularly by making such training available to the maximum extent possible within Town policies and encouraging minority employees to increase their skills and job potential

through participation in available training and education programs.

Goals and Timetables

1. *Long Term*

   The Town of West Newbury sets as a long-term goal the employment of women and minorities to reflect the percentage of women and minorities in the workforce of the Town.

2. *Short Term*

   Within a three-year period after the identification of deficiencies in female and minority employment, such a deficiency shall be corrected.

Periodic Review and Update

The Town of West Newbury Affirmative Action Plan will be reviewed every five years and updated as necessary.

Internal Evaluation

In order to monitor and evaluate progress in reaching the goals of the Affirmative Action Plan, the EOA shall prepare a report every six months. The report will evaluate how the program is working, and where improvement is needed. Included in this report will be:

- A survey of current employment by classification, salary or wage level
- Analysis of internal and external work force available of race, color, national origin, and sex
- Identification of areas of underutilization and concentration, and establishment of hiring and promotion goals and timetables
- Records on hires, promotions, transfers, training program participants, including sources of referrals and hires by of race, color, national origin, religion, gender, sexual orientation, age, or physical/mental handicap, military/veteran status or any other characteristic or status of individual protected from discrimination under state or federal law.
- Resignations, layoffs and dismissals by of race, color, national origin, religion, gender, sexual orientation, age, or physical/mental handicap, military/veteran status or any other characteristic or status of individual protected from discrimination under state or federal law.
- Progress towards goals

Revised: Responsibilities for Affirmative Action on October 4, 2021

APPENDIX B

Safety Policy

1. It is the policy of the Town of West Newbury that all employees work under the safest possible conditions in each department. To this end, every reasonable effort will be made to provide and maintain a safe and healthy work environment, safe equipment, proper materials and to establish and require safe work practices at all times.

   Accidents which injure people, damage machinery or equipment, destroy materials and property cause needless suffering, inconvenience and expense.

   Employees are the Town's most important asset, and their safety is the Town's greatest responsibility.

2. Every employee is responsible for making job safety a part of his or her daily concern. Employees shall observe rules of conduct and safety and shall use any and all safety equipment that is provided in a proper manner.

3. Department heads are responsible for thoroughly investigating all accidents and for reporting the results of their investigation on forms that are available from the office of the Board of Selectmen. In completing the investigation, emphasis shall be placed on determining the condition or other factors responsible for each and every incident.

4. The Safety Coordinator has been designated and is responsible for ensuring that department heads and supervisory personnel carry out their duties in the area of loss control.

APPENDIX C

Commercial Driver's License Alcohol and Drug Testing Policy

Section 1.0 Introduction

This is the policy of the Town of West Newbury regarding alcohol testing and drug testing of those employees who operate motor vehicles which require a commercial driver's license as provided in the rules and regulations of the U.S. Department of Transportation.

Section 2.0 Definitions, terms and abbreviations

"Alcohol," the intoxicating agent in beverage alcohol, ethyl alcohol, methyl, or isopropyl alcohol.

"Alcohol concentration," also called alcohol content; the alcohol volume of breath as indicted by an evidential breath test, such as a Breathalyzer or as indicated by a blood alcohol test.

"Alcohol use," the consumption of any beverage, mixture or preparation, including medications, containing alcohol.

"Breath alcohol technician" (BAT), an individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device.

"CDL," commercial driver's license.

"CMV," commercial motor vehicle.

"Confirmation test," in alcohol testing, a second test with a result of 0.02 or greater, that provides a quantitative measurement of alcohol concentration.

"Controlled substances," in this policy, the terms "drugs" and "controlled substances" are interchangeable and have the same meaning. Unless otherwise provided, these terms refer to amphetamines (including methamphetamines), cocaine, marijuana, opiates and phencyclidine (PCP).

"DOT," Department of Transportation.

"Driver," any person who operates a commercial motor vehicle, including full-time drivers, temporary or occasional drivers, leased drivers and independent owner-operator contractors who are either directly or indirectly employed by the Town of West Newbury.

"Evidential breath testing," a device for alcohol breath testing that has been approved by the National Highway Safety Administration or blood alcohol test performed by a medical professional licensed to perform blood alcohol tests.

"Medical review officer" (MRO), a licensed physician (M.D. or O.D.) responsible for interpreting lab results from the Town's drug testing program.

"Screening test," in alcohol: the initial test to determine if a driver has a prohibited concentration of alcohol in his or her system. In drug testing: a screen to eliminate negative urine specimens from further consideration.

"Substance abuse," refers to patterns of substance use that result in health consequences or impairment in social, psychological and occupational functioning.

"Substance abuse professional," a licensed physician (M.D. or O.D.) or a licensed or certified psychologist, social worker or addiction counselor with experience in the diagnosis and treatment of alcohol and substance problems.

"Town," Town of West Newbury.

Section 3.0 Coverage

The U.S. Highway Administration Department of Transportation Alcohol and Drug ruling applies to every person who operates a CMV in interstate or intrastate commerce and is subject to the CDL requirements of part 383.

Section 4.0 Safety-sensitive function

A safety-sensitive function includes any of the following functions or activities:

a. Waiting to be dispatched, while at a carrier or shipper facility or on any public property, unless the driver is relieved from duty by the employer;

b. Inspecting service brakes, including trailer brake connections, parking brake, steering mechanism, lighting devices and reflectors, tires, horn, windshield wipers, rear vision mirrors, coupling devices, fire extinguisher, spare fuses or warning devices for stopped vehicles;

c. Inspecting, servicing or conditioning any CMV in operation;

d. At the driving controls of a CMV in operation;

e. While in or upon any CMV, except when resting in the sleeper berth;

f. Supervising or assisting in loading or unloading a vehicle;

g. Attending a vehicle being loaded or unloaded;

h. While in readiness to operate the vehicle;

i. When giving, or receiving receipts for shipments loaded or unloaded;

j. Performing driver requirements of sections 392.40 and 392.41 of part 392, Driving Motor Vehicles, relating to accidents.

k. Repairing, obtaining assistance or remaining in attendance upon a disabled vehicle.

Section 5.0 Alcohol and Drug Prohibitions

The DOT refers to the restrictions for the use of both alcohol and drugs as "prohibitions."

5.1 *Alcohol prohibitions*

A driver may not report for duty or stay on duty:

a. with a blood alcohol concentration of 0.02 or greater;

b. if in possession of alcohol (unless it is being transported as cargo), including any product or medication containing alcohol;

c. within four hours of using alcohol.

A driver who has had an accident may not use alcohol until post-accident testing is done, or for a period of eight hours, whichever comes first.

5.2 *Drug prohibitions*

Drivers may not report for or stay on duty (a) if they have tested positive for a drug or (b) while using any drugs, except when a physician has prescribed a substance which does not interfere with the driver's ability to operate a vehicle in a safe manner. Drivers may be required to report the use of any drugs prescribed by a physician.

Section 6.0 Testing

There are five situations where testing may be done to determine the presence of alcohol and/or drugs.

6.1 *Pre-employment*

Before a new hire may perform any safety-sensitive duties, or when a person transfers into a safety-sensitive function from elsewhere in the Town.

6.2 *Post-accident*

Following an accident involving a fatality, or when the driver was cited for a moving violation.

6.3 *Random*

Unannounced random testing is required on a certain percentage of drivers each year.

6.3.1 *Selection and participation*

The random selection process will ensure that each driver has an equal chance of being tested. Drivers must report immediately to the test site when notified that they have been selected for random testing.

6.3.2. *Alcohol*

Random testing for alcohol must be performed immediately before, during or after performing safety-sensitive work. The percentage of drivers to be randomly tested for alcohol in any year of the testing program depends on the percentage of positive tests for the entire industry.

6.3.3 *Drugs*

Random testing for drugs may be performed at any time a driver is working for the Town. Fifty percent (50%) of all drivers in the testing group must be randomly tested for drugs in each year of the testing program.

6.4 *Reasonable suspicion*

If a department head believes that the behavior or appearance of a driver may indicate alcohol or drug use. Appearance, speech, behavior and body odor of alcohol are factors in determining reasonable suspicion. Drivers may not report for, or stay, on the job while under the influence of alcohol. The Town will not allow drivers to perform safety-sensitive duties until their alcohol concentration is less than 0.02 or 24 hours have passed from the time of the initial observation. No action will be taken against a driver regarding alcohol misuse on the job unless an alcohol test was administered or refused.

6.5 *Return to duty and follow-up*

6.5.1 Return to duty testing is required for drivers who have violated prohibitions before they may return to work. In order to return to work, an alcohol concentration of less than 0.02, or a negative drug test, is required.

6.5.2 Follow-up testing is required after a driver returns to a safety-sensitive function. A minimum of six tests during the first year back in a safety-sensitive position is required. Follow-up testing may continue for up to five years.

Section 7.0 Refusal to be tested

Drivers must submit to alcohol and drug testing. If a driver refuses to be tested, it is considered a positive test result. Refusal to test is considered to be any time a driver either fails to provide enough breath for alcohol testing or enough urine for drug testing (without a valid medical excuse) after being notified of the test, or otherwise obstructing the testing process.

Section 8.0 Alcohol testing procedure

8.1 All alcohol testing will be done by a BAT in a private setting.

8.2 The BAT will ask test subjects for identification. The BAT will provide identification to the test subject upon request.

8.3 The test subject must blow forcefully into the mouthpiece of the testing device. The BAT must show the test subject the test result on the testing device.

8.4 A screening test is done first. If the reading is less than 0.02, the test subject will sign and date the certification. The test will be reported as negative.

8.5 If the reading is 0.02 or greater, a confirmation test must be performed after 15 minutes, but within 20 minutes of the first test. Test subjects will be directed not to eat, drink, belch or put anything in the mouth, to avoid the buildup of mouth alcohol which could lead to an artificially high-test result.

8.6 If the screening and confirmation test results are not the same, the confirmation test result is used.

8.7.1 An individual may request a blood alcohol test at their own expense in lieu of a Breathalyzer.

8.8.1 Any refusal to be tested, or to sign the testing form, will be reported immediately to the Town.

Section 9.0 Drug testing procedure

9.1 Drug testing is done by analyzing a urine sample which will be collected in a private location.

9.2 Urine specimens are divided into two containers by the collection site person in the presence of the test subject. These two samples, called primary and split, will be sent to a testing laboratory certified by the federal government.

9.3 A screening test will be performed on the primary sample at the laboratory. If this test is positive for drugs, a confirmation test is required, using the primary sample.

9.4 The confirmation test must use a specialized procedure called gas chromatography/mass spectrometry, to ensure that over-the-counter drugs are not reported as positive.

9.5 If the first test is positive, the MRO will contact the test subject to find out if there is a medical reason for drug use. If the MRO determines there is a legitimate medical excuse, the test may be reported as negative.

9.6 A test subject may request a test of the split specimen within 72 hours of notification that the first test was positive. If a second test is requested, and is positive, the test subject will be responsible for the cost of the second test. The second test, using the split sample, will be sent to another federally certified laboratory. If the request for a second test is not made within 72 hours, but the test subject can provide a legitimate reason for not doing so, the MRO may order the split specimen to be tested.

9.7 Removal from safety-sensitive functions is required by the DOT following the first positive drug test. If the analysis of the split sample does not confirm the presence of a

drug, the MRO shall cancel the test and report this to the DOT, the Town and the test subject.

Section 10.0 Consequences of violating the alcohol or drug prohibitions

10.1 *Alcohol violations*

10.1.1 Removal from safety-sensitive functions

10.1.2 Following a violation, a driver may not return to safety-sensitive duties until an evaluation has been performed and any recommended treatment has been completed.

10.1.3 Anyone with an alcohol concentration of 0.02 or greater, may not return to safety-sensitive duties for at least 24 hours.

10.2 *Drug violations*

10.2.1 Removal from safety-sensitive functions.

10.2.2 A driver cannot return to safety-sensitive duties until an evaluation has been performed, recommended treatment has been completed, and a verified negative drug test is produced.

10.3 *Discipline*

An employee who refuses to be tested, or who tests positive for alcohol or drugs, may be subject to disciplinary action, including suspension and discharge in appropriate situations.

Section 11.0 Alcohol and drug treatment

11.1 In conformity with DOT rules and regulations, employees will be provided with an opportunity for treatment at their own expense and without any obligation for the Town to hold a job open. Employees who violate an alcohol or drug prohibition must be evaluated by a substance abuse professional to determine what help is needed. As provided in Section 10.0, completion of recommended treatment is a condition for return to a safety-sensitive job.

11.2 The Town's designated coordinator for alcohol and drug problems is available for assistance with treatment referrals. He/she may be reached at the Town Clerk and Board of Selectmen's Office, Town Office Building, 381 Main Street, West Newbury, MA 01985. Telephone number is 978-363-1100, extension 115.

Section 12.0 Effects of alcohol and drugs on the body

12.1 *Alcohol*

Alcohol, a nervous system depressant, is the most widely abused drug. About half of all auto accident fatalities in this country are related to alcohol abuse. A 12-ounce can of beer, a 5-ounce glass of wine and a 1.5-ounce shot of hard liquor all contain the same amount of alcohol. The average person takes about one hour to process and eliminate one-half ounce of alcohol. Coffee, cold showers or exercise do not speed up the process. Alcohol first acts on the parts of the brain that affect self-control and learned behaviors. This explains the aggressive behavior of some people who drink. In large doses, alcohol can impair muscular coordination, memory and judgment. Taken in larger quantities over a long period of time, alcohol can damage the liver and heart, and can cause permanent brain damage. On average, heavy drinkers shorten their life span by about 10 years. Other effects include greatly impaired driving ability; reduced coordination and reflex action; impaired vision and judgment; inability to divide attention; lowering of inhibitions; and hangover, including headaches, nausea, dehydration, unclear thinking and aching muscles.

12.2 *Amphetamines*

Amphetamines are drugs that stimulate the central nervous system and produce a feeling of alertness and an increase in speech and general physical activity. Street names for amphetamines include speed, uppers, bennies, wake-ups and dexies. People who use amphetamines become addicted quite often, believing that they need the drug to get by. They use the drug frequently to avoid the "down" mood which they experience when the drug wears off. Even small, infrequent doses can produce restlessness, anxiety, mood swings, panic, heart rhythm disturbances, paranoid thoughts, hallucinations, convulsions and coma. Long-term users often have acne, trouble with teeth, gums, and nails and hair. Frequent use can produce brain damage and speech problems. Other effects include loss of appetite; irritability and anxiety; increased heart rate and blood pressure; difficulty in focusing eyes; exaggerated reflexes; distorted thinking; perspiration, headaches, dizziness and insomnia.

12.3 *Cocaine*

Cocaine is a stimulant drug which increases heart rate and blood pressure. As a powder, cocaine is inhaled, ingested or injected. Cocaine is also used as a free-base cocaine know as "crack" or "rock," which is smoked. Crack cocaine is one of the most addictive drugs known. Cocaine causes rapid heartbeat, tremors and even convulsions. Due to the extreme demand for oxygen it creates, cocaine use can directly cause a heart attack. High doses can depress brain functioning, breathing and heartbeat, which can cause death. Other effects include heightened, but momentary, feeling of confidence, strength and endurance; accelerated pulse, blood pressure and respiration; impaired driving ability; paranoia, which may trigger mental disorders; irritation and bleeding of nostrils; mood swings and anxiety; reduced sense of humor; compulsive behavior such as teeth

grinding or repeated hand washing.

12.4 *Opiates*

Opiates include heroin, morphine, codeine and other narcotics used to relieve pain and induce sleep. Heroin, also called "junk" or "smack," accounts for 90 percent of the narcotic abuse in this country. Sometimes narcotics found in medicines are abused; this includes pain relievers containing opium and cough syrups containing codeine. Heroin is illegal and cannot be obtained legally even with a doctor's prescription. Most medical problems are caused by uncertain dosage level, use of unsterile needles, contamination of the drug or dangerous combination with other drugs. Other effects included short-lived euphoria; impaired driving ability; drowsiness, followed by sleep; decreased physical activity; reduced vision; change in sleeping habits and possible death.

12.5 *Phencyclidine*

Phencyclidine or PCP, also known as "angel dust", was developed as a surgical anesthetic in the late 1950s. Later, due to its negative side effects, it was restricted to use as a veterinary anesthetic and tranquilizer. Today it has no lawful use and is no longer legally manufactured. PCP is a very dangerous drug that can produce violent and bizarre behavior. More people die from accidents caused by erratic and unpredictable behavior produced by the drug than from the drug's direct effect on the body. PCP scrambles the brain's internal connections and changes how users see and deal with their environment. Routine activities, such as driving and walking become very difficult. Low doses produce a rush, sometimes associated with a feeling of numbness. Increased doses produce an excited, confused state, including any of the following: muscle rigidity; loss of concentration and memory; visual disturbances; delirium; feelings of isolation; and convulsions. Other effects include impaired driving ability; drowsiness; perspiration; repetitive or incomplete speech patterns; blank stare; thick, slurred speech; and involuntary eye movement.

Section 13.0 Distribution

Copies of this policy will be distributed to all covered employees. Employees will be requested to complete a form acknowledging receipt of the policy and indicating that they have read the policy.

APPENDIX D

Policy and Procedures Concerning Sexual Harassment

1. The Town of West Newbury depends upon a work environment of tolerance and respect for the achievement of its goals. The Town is committed to providing a working environment that is free of all forms of abuse or harassment. The Town recognizes the right of all employees to be treated with respect and dignity.

2. Sexual harassment is a form of behavior which adversely affects the employment relationship. It is prohibited by state and federal law and will not be tolerated by the Town. The Town condemns and prohibits sexual harassment by any employee.

   Sexual harassment does not refer to purely voluntary social activities. It refers to behavior which is not welcomed by the employee, which is personally offensive to him or her, and which undermines morale and/or interferes with the ability of the employee to work effectively. As defined by law, sexual harassment may, depending upon the circumstances, include unwelcome actions, such as:

   - verbal abuse of a sexual nature, use of sexually degrading words, or jokes or language of a sexual nature;
   - physical contact including patting, pinching or repeated brushing against another's body;
   - demands or requests for sexual favors accompanied by implied or overt promises of preferential treatment or threats concerning an individual's status as an employee;
   - continued expressions of sexual interest after being informed that the interest is unwelcome;
   - assaults or molestations; and
   - the posting or distribution of sexually suggestive pictures or other material.

3. Sexual harassment is not limited to prohibited behavior by a male employee toward a female employee. Either a man or woman may be a harasser, or a victim of sexual harassment. The harasser may or may not be the victim's supervisor, and the harasser and victim may be of the same, or opposite, sexes.

   The victim may not be the person to whom the unwelcome sexual conduct is directed. The victim may be someone who is affected by the harassing conduct, even when it is directed toward another person, if the conduct creates an intimidating, hostile or offensive working environment for the employee or interferes with the employee's work performance.

4. It is, therefore, against the policy of the Town for an employee or person with whom a Town employee comes in contact on the job, male or female, to harass a Town employee sexually, that is, by making unwelcome sexual advances, requests for sexual favors or other uninvited verbal or physical conduct of a sexual nature when:

   a. submission to such conduct is made, either explicitly or implicitly, a term or condition of an employee's employment;

   b. submission to, or rejection of, such conduct by an individual is made the basis for employment decisions affecting the employee;

   c. such conduct has the purpose, or effect, of interfering with an individual's work performance;

   d. a hostile or intimidating work environment is created for the employee.

   It is also against the policy of the Town for an employee to sexually harass any person with whom the employee comes in contact on the job.

5. Each employee is personally responsible for:

   a. ensuring that his or her conduct does not sexually harass any other employee or person with whom the employee comes in contact on the job, such as an outside vendor; and

   b. cooperating in any investigation of alleged sexual harassment by providing any information he or she possesses concerning the matter being investigated; and

   c. actively participating in efforts to prevent and eliminate sexual harassment and to maintain a working environment free from such conduct; and

   d. ensuring that an employee who files a sexual harassment claim or cooperates in an investigation may do so without fear of retaliation or reprisal.

6. *Supervisor/ Subordinate Fraternization*

   The legal definition of sexual harassment is broad. Sexually orientated conduct, whether it is intended or not, that is unwelcome or has the effect of creating a work place environment that is hostile, offensive, intimidating or humiliating may constitute harassment. While friendly, collaborative personal relationships are encouraged and create a positive work environment, personal relationships must never, even in perception, create a conflict of interest or bias.

   Individuals who manage others, should never engage in a romantic, intimate relationship with any employee within their chain of command.

   Relationships included within this policy are marriage, dating, or any other relationship that creates the appearance of favoritism or an actual conflict of interest. This Policy is intended to supplement the state conflict of interest law contained in Chapter 268A of the Massachusetts

General Laws by providing guidance with respect to the hiring and promoting of individuals or employees to avoid the appearance of favoritism.

If such relationships develop, it is the responsibility of senior management to take appropriate action, after consultation with the parties. Such action may include, but is not limited to:

- Transfer or reassignment, preferably with voluntary participation of the parties;
- Removal of the supervisor from any activity or decision directly or indirectly affecting the subordinate, including work assignments, performance evaluation, compensation, bonus or promotion;
- Termination of employment.
- This policy will be applied in accordance with applicable state and federal laws. Non-consensual relationships of a romantic or sexual nature are addressed in the Town's Sexual Harassment Policy and are prohibited by law and Town Policy.

Any individual who applies for a position with the Town or for a promotion shall notify the Appointing Authority of any "relative(s)" who are currently employed by the Town in any capacity, as provided by Chapter 268A, and under Section Ill, A (3) of this Policy. The Board of Selectmen/Town Manager may implement administrative procedures necessary to implement this policy.

7. Retaliation against an employee for filing a complaint of sexual harassment or for cooperating in an investigation of a sexual harassment complaint is against the law and will not be tolerated by the Town.

8. Any employee violating this policy will be subject to appropriate discipline, including possible discharge by the Town.

9. The Town has a designated Sexual Harassment Grievance Officer (Grievance Officer). He/she may be reached at the Town Clerk and Board of Selectmen's Office, Town Office Building, 381 Main Street, West Newbury, MA 01985. Telephone number is 978-363-1100, extension 115.

   The Town has been designated as the Alternate Sexual Harassment Grievance Officer (Alternate Grievance Officer). He/she may be reached at the Office of the Town Clerk, Town Office Building, 381 Main Street, West Newbury, MA 01985. Telephone number is 978-363-1100, extension 110.

10. If any employee believes he or she has been subjected to sexual harassment, the employee should initiate a complaint by contacting the Grievance Officer or Alternate Grievance Officer as soon as possible. The employee should file the complaint promptly following an incident of alleged harassment. The employee should be aware that the longer the period of time between the event giving rise to the complaint and the filing, the more difficult it will be for the Grievance Officer to verify what occurred. The employee may be requested to document the complaint in writing.

An employee may, at his or her option, discuss a possible sexual harassment problem with his or her supervisor, or may go directly to the Grievance Officer without notifying the supervisor.

11. The Grievance Officer, or Alternate Grievance Officer, shall promptly make a preliminary investigation into all complaints that are received. If, after completion of the preliminary investigation, it is determined that there is a reasonable basis for finding a violation of the policy, the Town will orally notify the complainant and the charged employee. The charged employee will be requested to respond to the complaint. Additional investigation will be made to the extent appropriate to each case. This investigation will be conducted in a confidential manner to the greatest extent possible, consistent with an effective investigation and subject to the business needs of the Town.

12. After the charged employee, has responded to the complaint and any further investigation has been completed, the Town will make a final decision. If the Town finds that the allegations in the complaint have been established by the investigation, the Town will initiate discipline of the charged employee. Discipline will be appropriate to the offense and to the employee involved and may include discharge. The complainant will be notified of the final disposition of the investigation.

13. Using the Town's complaint process does not prohibit you from filing a complaint with other agencies. Each agency has a short period for filing a claim. (EEOC – 300 days; MCAD 300 days) The Massachusetts Commission Against Discrimination, with offices at One Ashburton Place, Boston, MA 02108, 617-994-6000 and at 436 Dwight Street, Springfield, MA, 413-739-2145 is responsible for enforcing the Massachusetts law prohibiting sexual harassment in the workplace.

    The United States Equal Employment Opportunity Commission, located at 475 Government Center, Boston, MA is responsible for enforcing the federal law prohibiting sexual harassment in the workplace.

14. Copies of this policy will be distributed to all employees annually. Employees will be requested to complete a form acknowledging receipt of the policy and indicating that they have read the policy.

Amended: September 18, 2017

APPENDIX E

Town of West Newbury's E-mail, Internet and Social Media Use Policy

The Town of West Newbury recognizes the importance of modern technology and access to the Town's information. This is another attempt to provide our citizens the best and most efficient services possible. Therefore, the Town has provided many of its employees with e-mail as well as access to the Internet. Some of its employees also engage in social media (Facebook, Twitter and similar services) on behalf of the Town All information technology provided by the Town to its employees or used by its employees on behalf of the Town, including, but not limited to, Internet access, e-mail and social media, is, and remains at all times, the property of the Town of West Newbury. Accordingly, the Town has the right to review any and all activity, including, but not limited to, all data and information accessed, created, sent, displayed, stored, downloaded and/or printed through the e-mail, Internet and/or social media services provided by the Town or conducted in the name of the Town.

While the Town encourages its employees to utilize these information technology tools, employee use of the Town's e-mail, the Internet and social media is restricted to the business purposes of the Town. All employees are responsible for their own actions with respect to their use of the Town's e-mail, the Internet and social media. Employees may not use another employee's password or computer to create, send or retrieve e-mail messages, or to access Internet sites, unless express permission is granted. Under no circumstance are the Town's e-mail, Internet and social media systems to be used for any purposes prohibited by state, local or federal law. Employees are advised that copyright laws apply to information accessed over the e-mail system the Internet and social media. Any improper use of the Town's e-mail, Internet and social media systems, at any time, including, but not limited to, accessing, creating, sending, displaying storing, downloading and/or printing sexually explicit or otherwise potentially offensive materials, will not be tolerated and will subject the employee to discipline, up to and including, termination. Employees' use of social media shall also conform to all social media policies enacted by the Board of Selectmen.

Employee use of the Town's e-mail, Internet and social media systems is not private. All e-mail messages and Internet sites visited by Town employees are automatically stored on the Town's computer back-up systems as well as any social media services conducted on Town's equipment. Further, employees should be aware that even when a message is deleted, it may exist on a backup tape. The Town of West Newbury reserves the right to retrieve, save, monitor and review all web sites visited by an employee and all information and/or data accessed, created, sent, displayed, stored, downloaded and/or printed through the employee's access to the Internet, at any time, with or without advance notice or prior consent. Such access may occur during or after working hours by any supervisor, manager, or other personnel designated by the Town of West Newbury. Further, employees are reminded that information accessed and/or distributed over the e-mail system the Internet or social media may be considered a public record pursuant to M.G.L. c.66.

An employee's use of the Town's e-mail system and/or access to the Internet through the Town's system and /or use of social media on behalf of the Town constitutes his/her agreement to comply with the Town's E-mail, Internet and Social Media Use Policy as well as his/her consent to the Town's recording and monitoring of the employee's use of the e-mail Internet and social media systems. Employees are subject to all rules and regulations promulgated by the Town of West Newbury's Board of Selectmen. This policy may be altered or amended at the discretion of the Town at any time. Employees will be notified of any change in the policy.

Revised: September 30, 2009

Revised: May 14, 2018

APPENDIX F

MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

MCAD Guidance PREGNANT WORKERS FAIRNESS ACT

Issued 1/23/2018

The Pregnant Workers Fairness Act ("the Act") amends the current statute prohibiting discrimination in employment, G.L. c. 151B, §4, enforced by the Massachusetts Commission Against Discrimination (MCAD). The Act, effective on April 1, 2018, expressly prohibits employment discrimination on the basis of pregnancy and pregnancy-related conditions, such as lactation or the need to express breast milk for a nursing child. It also describes employers' obligations to employees that are pregnant or lactating and the protections these employees are entitled to receive. Generally, employers may not treat employees or job applicants less favorably than other employees based on pregnancy or pregnancy- related conditions and have an obligation to accommodate pregnant workers.

Under the Act:

- Upon request for an accommodation, the employer has an obligation to communicate with the employee in order to determine a reasonable accommodation for the pregnancy or pregnancy-related condition. This is called an "interactive process," and it must be done in good faith. A reasonable accommodation is a modification or adjustment that allows the employee or job applicant to perform the essential functions of the job while pregnant or experiencing a pregnancy-related condition, without undue hardship to the employer.

- An employer must accommodate conditions related to pregnancy, including post-pregnancy conditions such as the need to express breast milk for a nursing child, unless doing so would pose an undue hardship on the employer. "Undue hardship" means that providing the accommodation would cause the employer significant difficulty or expense.

- An employer cannot require a pregnant employee to accept a particular accommodation, or to begin disability or parental leave if another reasonable accommodation would enable the employee to perform the essential functions of the job without undue hardship to the employer.

- An employer cannot refuse to hire a pregnant job applicant or applicant with a pregnancy-related condition, because of the pregnancy or the pregnancy-related condition if an applicant is capable of performing the essential functions of the position with a reasonable accommodation.

- An employer cannot deny an employment opportunity or take adverse action against an employee because of the employee's request for or use of a reasonable accommodation for a pregnancy or pregnancy-related condition.

- An employer cannot require medical documentation about the need for an accommodation if the accommodation requested is for: (i) more frequent restroom, food or water breaks; (ii) seating; (iii) limits on lifting no more than 20 pounds; and (iv) private, non-bathroom space for expressing breast milk. An employer, may, however, request medical documentation for other accommodations.

- Employers must provide written notice to employees of the right to be free from discrimination due to pregnancy or a condition related to pregnancy, including the right to reasonable accommodations for conditions related to pregnancy, in a handbook, pamphlet, or other means of notice no later than April 1, 2018.

- Employers must also provide written notice of employees' rights under the Act: (1) to new employees at or prior to the start of employment; and (2) to an employee who notifies the employer of a pregnancy or a pregnancy-related condition, no more than 10 days after such notification.

The foregoing is a synopsis of the requirements under the Act, and both employees and employers are encouraged to read the full text of the law available on the General Court's website here:

https://malegislature.gov/Laws/SessionLaws/Acts/2017/Chapter54.

If you believe you have been discriminated against on the basis of pregnancy or a pregnancy-related condition, you may file a formal complaint with the MCAD. You may also have the right to file a complaint with the Equal Employment Opportunity Commission if the conduct violates the Pregnancy Discrimination Act, which amended Title VII of the Civil Rights Act of 1964. Both agencies require the formal complaint to be filed within 300 days of the discriminatory act.

Adopted: May 14, 2018

TOWN OF WEST NEWBURY

PERSONNEL POLICY

I, _____ (Print Name) acknowledge receipt of the West Newbury Personnel Policy, with updates through November 15, 2021.

_____ _____

Employee Signature Date