

# Town of Newbury, Massachusetts

## PERSONNEL POLICY MANUAL

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### Rules, Regulations and Policies

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## **ADDENDUMS**

A – Employee Acknowledgement Form  
Exhibit A– Personnel Action Form  
(PAF)

## **CHAPTER I**

### *PURPOSE AND SCOPE*

#### **A. Purpose of Rules**

It is the purpose of these rules to give effect to the intent and requirements of the Personnel Rules and Regulations. These rules shall be applied in accordance with the intent of the Town's Personnel Bylaw (Chapter 22, October 23, 2018) which is interpreted and declared to be as follows:

1. To establish for the Town of Newbury a system of personnel administration rules and regulations that will ensure the provision of personnel services to employees in accordance with State and Federal laws;
2. To establish for the Town of Newbury a system of personnel administration based on merit principles and designed to promote the desires and interests of the Town as an employer and of the public served;
3. To govern the appointment, promotion, transfer, layoff, control, and voluntary and involuntary termination of employees in the classified service and all other personnel activities on the basis of merit and fitness; and
4. To govern leave.

#### **B. Applicable Rules and Regulations**

These policies shall apply to all employees in the service of the Town of Newbury, unless otherwise specified or exempted herein; except that these policies shall not apply when they are inconsistent with individually negotiated collective bargaining contracts between the Town and certain employees, or where the same are inconsistent with State or Federal legislation affecting municipal employees.

#### **C. Administration**

The Human Resources Board and Town Administrator shall administer the Personnel Policy Manual.

#### **D. Department Rules**

Department Heads are authorized to frame and promulgate rules in addition, and subject to, but not inconsistent with the provisions of this Personnel Policy Manual. If department rules conflict with the Personnel Policy Manual, the Personnel Policy Manual shall control.

#### **E. Conflict**

These rules and regulations shall supersede all previous rules and regulations relating to the same subject. In the event that any provision of this Personnel Policy Manual or application thereof shall be held invalid, this act shall not be construed to affect the validity of any other provision or application thereof of Personnel Policy Manual.

## **CHAPTER II**

### ***DEFINITION OF TERMS***

- A. Administrative Authority** - The elected official or Board or the appointed official having jurisdiction over a function or activity.
- B. Board** - The Human Resources Board as defined herein.
- C. Department** - Any department, board, committee, commission or other agency of the Town employing persons who are subject to the Personnel By-Law.
- D. Department Head** - The board, committee, commission, manager or person having supervisory control over a department.
- E. Classification Plan** - A plan classifying all positions, other than those filled by popular election and those covered by Collective Bargaining Agreements, into groups and classes doing substantially similar work or having substantially equal responsibilities.
- F. Job Description** - A written job description for every Town employee; Said description shall include essential duties and responsibilities for the position, as well as the required knowledge, skills and experience, including any mental and/or physical demands.
- G. Compensation Plan** - A plan establishing the rates of compensation to be paid to employees in positions established under the Classification Plan.
- H. Full time Employee** - A full time employee is one who is employed to work on a regularly scheduled basis for not less than thirty-five (35) hours per week nor less than fifty-two (52) weeks per year.
- I. Employees** - Less than full-time
  - 1. Permanent Part-Time Employees - A permanent part-time employee is one who is employed to work on a regularly scheduled basis for between twenty (20) and up to thirty-four (34) hours per week and not less than fifty-two (52) weeks per year.
  - 2. Part-Time Employee - A part-time employee is defined as one who maintains irregular service to the Town on an occasional or on an as-needed basis.
  - 3. Fractional Employee - A fractional employee is one who will work less than twenty (20) hours weekly in a regularly scheduled year-round position.
- J. Seasonal Employee** - A seasonal employee is one who is employed in a position that is filled only on a seasonal basis.
- K. Special Municipal Employee** – status can be assigned to certain municipal positions by the Board of Selectman (G.L.c.268A, 1(n))

- L. Employment Categories** – It is the intent of the Town of Newbury to clarify the definitions of employment classifications so that employees understand their employment status and benefit eligibility. These classifications do not guarantee employment for any specific period. Accordingly, the right to terminate the employment relationship at will at any time is retained by both the employee and the Town of Newbury.

Each employee is designated as either Non-Exempt or Exempt in accordance with the Fair Labor Standards Act (FLSA) 29 U.S.C. §203. Non-Exempt employees are entitled to overtime pay. Exempt employees are not entitled to overtime pay.

Non-Exempt employees will be paid 1-1/2 times their regular rate of pay for hours worked in excess of forty (40) in a pay week. All such overtime must be authorized in advance by the employee's manager.

- M. Continuous Employment** - Full-time employment that is uninterrupted, except for absences of military leave, vacation leave, sick leave, court leave and other authorized leave of absence provided for herein.
- N. Overtime** - Hours worked by a non-exempt employee in excess of 40 hours per week.
- O. Holiday Pay** - Pay authorized for holidays in accordance with the provisions of this policy.
- P. Promotion** - A change from a position of lower classification and compensation to a position of higher classification and compensation.
- Q. Employee Organization** - Any lawful association, organization or council having as a primary purpose the improvement of working conditions.
- R. Town** — Town of Newbury, Massachusetts, USA.

## **CHAPTER III**

### *PERSONNEL RECORDS*

#### **A. Personnel Records**

The Town Administrator maintains the official personnel files for all employees who work for the Town of Newbury. The personnel files maintained by the Town Administrator shall be the official files of the Town and shall include all original documentation pertaining to each employee in accordance with applicable state and/or federal regulations. Department Heads may maintain copies of personnel files, as well as documentation supporting departmental actions. All personnel records are the property of the Town of Newbury.

It is the responsibility of each employee to promptly notify their manager of any changes in their personal data. Personal mailing address, telephone numbers, email are all essential in contacting the employee in case of an emergency and must be kept current by notifying their Department Head and Treasurer/Collector's Office.

Current and former employees have the right to examine their personnel files and may, on written request, receive a copy of any records contained in their personnel file. An employee may request his or her personnel records not more than twice in any calendar year. Former employees of the Town may obtain copies of their files upon written request to the Town Administrator in the same manner as active employees. The Town shall permit this review or provide a copy within five (5) business days of the request.

In accordance with M.G.L., c. 149, § 52C as amended, the Town shall notify an employee within ten (10) days of placing information in an employee's personnel record that is, has been used or may be used, to negatively affect an employee's qualification for employment, promotion, transfer, additional compensation or subject (the employee) to disciplinary action. An employee may review his/her personnel record following the placement of negative information in his or her file without regard to the annual review limits set forth herein.

Personnel files may not be taken out of the Town Administrator's office without consent of the Town Administrator.

The personnel records include all original information pertinent to an employee's employment with the Town such as the employment application, payroll deductions, leave records, special commendations, disciplinary actions, education and training certificates and Employee Payroll Change Form. Employee medical records will be kept separate from all other personnel file information.

#### **B. Personnel Action Form (PAF)**

A Personal Action Form (PAF) must be used for new hires or rehires, including hiring of seasonal and temporary workers, as well as for leaves of absences, transfers, promotions, demotions, job title changes, schedule hour changes, as well as department, salary, status, and job class changes. A PAF must be used by an individual receiving compensation from the town,



including staff whose promotions are funded through a grant. PAF's must be completed by the department manager and forwarded to the Town Administrator and the Human Resources Board for review and approval. For new hires, a manager must also complete the Job Vacancy Form (JVF). The completed PAF and the JVF, if applicable, must be forwarded to the Town Administrator and Human Resources Board for approval prior to the job offer.

### **C. Public Inspection of Personnel Records**

The following information relative to current and/or former employees is available as a public record without a signed release from the employee: name, job title and dates of employment or information required to be disclosed in accordance with the Massachusetts Public Records Law. Examination of personnel records and other personal data are accessible only to the employee's Department Head, Town Administrator, Clerk, Treasurer/Collector, members of the Select Board and the employee involved, unless otherwise directed by the Supervisor of Records. All requests for employment verification should be forwarded to the office of the Town Administrator.

### **D. Attendance Records**

Departments are responsible for maintaining and reporting employee records of attendance. The Human Resources Board and Town Administrator may review departmental attendance records periodically to ensure consistent administration of attendance standards of all employees.

## **CHAPTER IV**

### ***GENERAL POLICIES***

#### **A. Bulletin Boards**

Information of interest to employees is posted on bulletin boards in each building on the official bulletin board maintained by the Town Clerk. In addition, informational notices are distributed to departments and, on occasion, material is enclosed with employee paychecks. Bulletin boards are for official use only and are not for personal use or solicitation. Various collective bargaining agreements may contain provisions for the use of bulletin boards for union announcements.

#### **B. Use of Town Counsel**

All employees and members of Town Boards/Committees are required to notify the Town Administrator and/or Chairman of the Board of Selectman for approval either in writing or verbally of any matters that require a legal opinion from the Town Counsel.

#### **C. Town Commitments**

No employees including Department Heads are authorized to execute contracts, grants, or any agreements on behalf of the Town of Newbury unless authorized by the Town Administrator in accordance with Massachusetts General Laws, as amended.

#### **D. Personnel Changes**

No change to the status of an employee's employment with the Town of Newbury should be made without completion of a Personnel Action Form (PAF). A copy of this form is provided in the Addendum Section of this Manual as Exhibit A.

#### **E. Use of Town Hall**

Town Hall and its meeting rooms are available for governmental, political, and educational activities that do not interfere with the conduct of government. The Town Administrator shall have jurisdiction over the rental and use of town property and shall be responsible for the maintenance and repair of town buildings.

The Town Administrator and the Chief of Police, in consultation, shall provide for the assignment of police officers when necessary. The cost of supervision and provision of police officers shall be the responsibility of the using organization.

Any group granted permission to use any Town facility, shall be responsible for:

1. Conduct of participants and their guests
2. Return of any equipment/fixtures to their proper place

3. Replacement or repair of any damaged equipment/fixtures
4. Compliance with all state and local laws
5. Any other specific requirement deemed appropriate by the Town for each activity

Special conditions:

- a) Smoking is not allowed within the Town Hall
- b) Food and beverages are not permitted without prior, written approval of the Town Administrator

#### **F. Employee Personnel References**

Any requests for an employee reference based on employment with the Town of Newbury shall be referred to the office of the Town Administrator. It is the Town of Newbury's policy that all requests for references for current or past employees must be referred immediately to the Town Administrator. Under no circumstance should any employment information be provided by anyone other than the Town Administrator.

#### **G. Indemnification/Defense**

The Town shall provide defense counsel for any employee whenever the employee shall be sued for damages arising out of the discharge of his official public duties, acting within the scope of the employee's duties in accordance with G.L. c. 258, § 9.

#### **H. Physical Fitness**

Employees are to maintain the standards of physical fitness required for performing their job. When a Department Head believes that the physical condition of an employee prevents an employee from performing the essential functions of their job the Department Head may request the employee to submit to medical examination by a licensed medical physician.

## **CHAPTER V**

### *THE CLASSIFICATION PLAN*

#### **A. Authority**

This section establishes the Classification Plan of the Town within the meaning of Section 108A of Chapter 41 of the General Laws.

#### **B. Classification of Existing Positions**

All positions in the service of the Town, except those filled by popular election, are classified by titles in groups as set forth in the "Classification Plan." Said plan will be made available upon request.

#### **C. Classification of New Positions**

Whenever a new position is established, or the duties of an existing position are so changed as in effect to create a new position, the Human Resources Board, upon receipt of satisfactory substantiating data, shall allocate such new or changed position to its appropriate class. No position shall be reclassified until the Board has determined that such reclassification will be consistent with the Classification and Compensation Plans.

#### **D. Title of Class**

The title of each class, as established by the Classification Plan, shall except as otherwise provided herein, be the official title of every position allocated to the class and the official title of each incumbent of a position so allocated, and shall be used to the exclusion of all others on payrolls, budget estimates and other official records and reports pertaining to the position. Should a position be subject to the Civil Service Law, that Law's titles shall be used in lieu of the title established in the Classification Plan.

#### **E. Classification Descriptions and Qualifications.**

The Human Resources Board shall establish, maintain and amend from time to time, as it deems necessary, written job descriptions for each class of positions established by the Classification Plan and for all elective and appointed positions in the Town service. Said descriptions shall describe the essential character of the duties and responsibilities of positions in each class of elected and appointed offices, with examples of work where desirable, setting forth the minimum qualifications for acceptance to positions of that category. Such descriptions shall not be restrictive, except as provided herein with respect to minimum qualifications. They shall serve to define the scope of the several classes and not to prescribe in detail the duties of any individual position, in the case of classes subject to the Civil Service Law, the minimum qualifications of employment shall be those approved by the Director of Civil Service. In the case of all other types of positions, the minimum qualifications for allocation thereto shall be prescribed by the Board and shall be based upon the following:

1. The minimum classification recommended to the Board for classification purposes by Department Heads.

2. An examination by the Board of the work content of positions allocated to the class.
3. The Board's study of comparable positions in the service of comparable municipalities.

## **CHAPTER VI**

### ***THE COMPENSATION PLAN***

#### **A. Coverage of the Compensation Plan**

The provisions of this Chapter are applicable to all employees except when the provisions of this Chapter are in conflict with those exempt as specified in Chapter I, Section B, “Applicable Rules & Regulations.” It is the policy of the Town to develop and maintain a compensation plan that is competitive with the marketplace enabling the Town to recruit and retain a quality work force. External salary data is collected from comparable communities as determined from the geographical recruitment area as well as operational and demographic criteria on a position-by-position basis. The Town may make changes to the salary ranges for each grade level as it deems necessary in order to maintain competitiveness with the marketplace.

#### **B. Authority**

This section establishes the Compensation Plan of the Town within the meaning of Section 108A of Chapter 41 of the General Laws.

#### **C. Determination of Compensation**

The compensation of each employee of the Town, except for elected officials, shall be determined in accordance with, and shall conform to, the wage schedules and rates of compensation and the effective dates thereof established for the different positions (Classification Schedule). The Town Administrator shall determine, in accordance with the provisions of this section and said wage rates and schedules, the rate of compensation of each such employee. The compensation of all union employees is based on the provisions contained in the collective bargaining agreements. Non-union compensation is established through the Town’s compensation plan.

#### **D. Length of Service Payments**

Service which is creditable in the computation of said fifty-two work weeks required before an employee is eligible for a Longevity payment shall include the following:

1. Continuous full-time paid employment, including periods of vacation leave, sick leave, or other leave with pay.
2. Active military service when otherwise creditable service was interrupted.
3. Length of service payments shall be made to active full-time employees as defined in Chapter III for continuous years of service as a paid employee of the Town as follows:
  - a. Upon completion of five (5) years but less than ten (10) years--\$250 Annually
  - b. Upon completion of ten (10) years but less than fifteen (15) years--\$500 Annually
  - c. Upon completion of fifteen (15) years and for duration of full time--\$750 Annually
  - d. Length of service payments shall be made to a permanent part time employee as defined by Chapter III at one half the full time rate. Part-time employees as defined under Chapter III do not qualify. Elected officials do not qualify with the exception of

an employee who was granted a Length of Service payment as part of their compensation package.

e. Effective date of length of service payments - longevity payments to active employees shall be made the first payroll in December.

#### **E. New Employee**

Upon the recommendation of a Department Head, supported by evidence in writing of special reasons and exceptional circumstances satisfactory to the Town Administrator, the Town Administrator may authorize for a new employee an entrance rate higher than minimum for that position. Any new employee, regardless of entrance rate granted, shall be subject to a probationary employment period.

#### **F. Promotion**

In the event an employee is promoted from one position in the Classification Plan to another position in said plan in a higher grade, the employee shall receive an increase in compensation as determined by the Town Administrator. Such rate of pay will not be more than the maximum rate of pay established by the Classification Plan for the grade of that position.

#### **G. Elected Officials**

The compensation of elected officials shall be established annually by vote of the Annual Town Meeting.

## **CHAPTER VII**

### ***EMPLOYEE BENEFITS***

#### **A. Eligible Employees.**

Any person in the service of a government unit who receives compensation for such service or services whether such person be employed, appointed, or elected by popular vote, provided that the duties of such person require no less than twenty (20) hours regularly in the service of the governmental unit during the regular work week, and provided further, that no seasonal or emergency employees shall be included. Persons elected by popular vote may be considered eligible employees during the entire term for which they are elected regardless of the number of hours devoted to the service of the governmental unit. A determination by the appropriate public authority that a person is eligible for participation in the plan of insurance shall be final. 32B Sec. 2-A & Sec. D

Newly hired employees working no less than twenty (20) hours weekly on a regular basis shall be eligible to elect offered employee insurance coverage(s) within thirty (30) days of commencing employment with the Town or during an open enrollment benefit's offering from the Town or at the time of any verified loss of insurance coverage from another employer.

#### **B. Special Coverage Employees.**

The appropriate Public Authority of the Town has designated that members of the Select Board and from time to time other specified Elected Officials may qualify for Town payment of premium costs at the same rate as has been established by vote of the Town. Coverage of costs will apply only during the employee's term of office. Any official covered herein will qualify for COBRA coverage when service is terminated for any reason other than gross misconduct.

#### **C. Health Insurance Plans**

Chapter 32B and certain Town Meeting votes relative to local acceptance statutes defines some, but not all, requirements for insurance coverage. The Town of Newbury provides group life, health, dental and other health insurance for the employees and covered dependents. The employer's share of health insurance premiums is 75%. Retirees may receive coverage of health insurance if eligible for retiree benefits under the Essex Regional Retirement System ("ERRS"). Coverage depends upon age, creditable years of service as defined by the ERRS, and retiree group.

The Town of Newbury also provides additional voluntary group life, accidental death, short term and long-term disability insurance but does not contribute to those premium costs. Payroll deductions for this coverage are made on a bi-weekly basis.

Coverage is outlined below:

#### ***Retiree & Retiree's Dependent(s)/Spouse Coverage:***

General Eligibility: An employee who retires from service to the Town prior to age 65 shall be eligible for insurance coverage, either:



- with a medical disability incurred during the time of employment by the Town and which prevents further employment at a normal work week of 20 hours or more. Premium costs for retirees shall be paid by the Town subject to all applicable Sections of Chapter 32B as approved by vote of the Town.

Additional Eligibility Coverage:

*if creditable service begins prior to January 1, 1978:*

- when he/she attains the age of 55 (regardless of creditable years of service).

*if creditable service begins prior to April 2, 2012:*

- When he/she has attained 20 years of creditable service (regardless of age) (some exceptions may apply).
- In Group 1 or 2, when he/she has attained 10 years of creditable service and when he/she attains age 55.
- In Group 4, when he/she attains the age of 55 and having performed the duties of a Group 4 member for at least 12 months prior to retirement.

*if creditable service begins on or after April 2, 2012:*

- In Group 1, after 10 years of creditable service and when he/she attains the age of 60.
- In Group 4, when he/she attains the age 55 and having performed the duties of a Group 4 member for at least 12 months prior to retirement.

#### **D. Consolidated Omnibus Budget Reconciliation Act (COBRA)**

The Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) requires employer-sponsored group medical and dental plans to allow covered employees and their dependents to elect to have their current medical coverage continued, at the employee's or dependent's expense, at group rates for up to thirty-six (36) months following a qualifying loss of coverage.

#### **E. Health Insurance Portability and Accountability Act (HIPAA)**

Permanent employees regularly required to annually work twenty (20) or more hours per week are covered under the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). HIPAA provides employees with certain rights that create a "portability" of health insurance coverage from one employer to the next. This does not mean that an employee can continue his/her current health plan if hired elsewhere. It means that an employee can receive "credit" for prior coverage when joining a new plan that may have waiting periods for pre-existing conditions. This requires a transfer of prior coverage information from the old employer to the new employer. The Town will provide to each employee who loses health insurance coverage a full certificate of coverage. The certificate of coverage provides: the date of certification, identifying information

including the name of the employee, the employee's health insurance plan identification number, names of dependents to whom the certificate applies, name of group health plan, name of employer, name, address, phone number of the plan Administrator and the first and last day of coverage. This certificate will be issued whenever an individual loses health insurance coverage or would lose coverage except for an election under COBRA.

Group health and dental benefits and premium rates for individuals electing continuation are the same as for active employees and their dependents plus an administrative charge. Individuals electing continuation must pay the entire monthly premium in advance.

Employees will be notified of their COBRA rights upon employment and at the time of a qualifying event as explained above. It is the employee's responsibility to keep the Town informed of any address changes or other pertinent information regarding themselves and/or their dependents.

#### **F. Unemployment Compensation**

State law requires the Town to reimburse the State of Massachusetts for unemployment benefits paid to former employees of the Town. It is the responsibility of individuals to file claims with the State Division of Employment and Training. The Town reserves the right to contest claims for unemployment compensation.

#### **G. Workers' Compensation and On-The-Job Injuries**

To preserve rights under the law, an employee must notify the Town immediately if involved in an on-the-job accident that results in personal injury. Employees injured on-the-job are protected against loss of income and medical expenses by provisions of the MGL, Chapter 152, Workers' Compensation. Employees receiving workers' compensation benefits may, upon request, utilize vacation, sick or personal leave accrued at the time of injury to supplement workers' compensation benefits up to the amount of base wages the employee received each week before the injury occurred. Injury report forms are available in the office of the Town Administrator office or online at [www.state.ma.us/legis/laws/mgl](http://www.state.ma.us/legis/laws/mgl).

#### **H. Retirement System**

As a condition of employment, all employees who are scheduled to work at least twenty (20) hours per week are required to join the Essex Regional Retirement System.

The Town Administrator or designee will provide assistance and direction to an employee eligible for retirement. Retirement applications must be made by an employee in accordance with the rules and regulations of the Essex Regional Retirement System.

#### **I. Death Benefit**

Upon the death of a Town employee who is on the Town's payroll, their estate or designated beneficiary is eligible to receive their accumulated annual leave funds, retirement contributions and life insurance.

#### **J. Deferred Compensation Plan**

A tax-sheltered savings program, which excludes contributions to the plan from gross income for federal personal income tax purposes, is available to employees. Contact the Treasurer/Collector's Office to begin a pre-tax retirement savings plan.

**K. Section 125 Plan – Flexible Spending Account**

The Town offers a pre-tax program which excludes from federal income tax purposes expenses for medical, childcare or dependent care. Contact the office of the Treasurer/Collector's Office to participate in this program.

**CHAPTER VIII**  
***HOURS OF WORK, BREAKS, OVERTIME***

**A. Hours of Work**

The administrative workweek for employees of the Town shall be established by the department head and/or the appointing authority.

The starting and ending times of the daily work schedules of all employees shall be determined and fixed by the Department Head, and such schedules may be changed from time to time to meet changing conditions of operations.

Each Department Head shall submit to the Treasurer/Collector on a bi-weekly basis, a timecard of each employee in the department.

**Emergency Closing of Town Departments**

1. Policy Statement - If an emergency exists within the Town, either as a whole or within a specific location or building, including severe weather conditions which may make travel hazardous, the Town Administrator may decide in the interest of Town employee safety that those who are not involved in essential Town services may be excused from duty or allowed to leave work early.

2. Procedure -

- (a) The Town Administrator shall have the responsibility to monitor potential emergency conditions in the Town by obtaining frequent information from the news media, weather services, and public safety agencies including police and fire. Based upon such information, the Town Administrator shall be authorized to decide whether a Town Department(s) should close or if an early dismissal may be in the best interest of the Town and its employees.

- (b) Department Heads shall, upon notification from the Town Administrator authorizing closure or early dismissal, determine whether the department or office should close completely or whether it should continue to operate with reduced staffing and, if so, which employees are essential and must remain on duty, and which employees are nonessential and may be excused from duty. Department Heads shall be responsible for the notification of employees within his/her direction.

- (c) Employees –

i.	An employee eligible to be released early may depart at the time announced. If compelling reasons necessitate an earlier departure time, the employee may leave prior to the authorized dismissal time. Factors such as travel arrangements, family circumstance, distance from home, or a disabling condition shall be taken into consideration. Each such situation must be reviewed and approved in advance by the appropriate Department Head.
ii.	An employee who is unable to report to work as scheduled due to an emergency situation will not be paid except upon the conditions set forth in sub-paragraph iv. below.

iii.	An employee dismissed from work early due to an emergency situation who was scheduled to work three or more hours and reports for duty on time shall be paid for at least three hours for that day at no less than the basic minimum wage in accordance with 454 CMR 27.04 (1). Time lost due to early dismissal may be compensated for as set forth in sub-paragraph iv below.	
iv.	Employees shall have the following options relative to time lost as a result of an emergency situation:	
	a.	Use of accrued vacation time (if available), or
	b.	Make up the lost work hours due to inclement weather or emergency closings during an agreed upon time between the employee, the Department Head and the Town Administrator, provided that they do so within 45 days of the dismissal and provided further that doing so does not cause said employees to work for more than 40 hours in a scheduled workweek.

## **B. Overtime Compensation**

1. Each full-time employee whose position has been determined by the Human Resources Board to be non-exempt pursuant to the Fair Labor Standards Act who shall be required to work in excess of forty (40) hours in one workweek, shall be paid for such overtime duty at the rate of one and one half times the employee's regular hourly rate of compensation. Hours worked for the purpose of computing overtime shall include only those hours the employee actually worked in that week. Time paid, but not actually worked, such as holiday, sick days, paid personal days or vacation, is not counted for the purpose of computing overtime pay unless otherwise provided for in an applicable Collective Bargaining Agreement. Prior authorization for paid overtime must be obtained from the Department Head in advance of working any overtime hours.
2. Overtime work shall be required only when necessary operations cannot be performed by employees during their regular work week. Overtime work shall be distributed on an equitable basis among employees qualified to do the work.
3. Permanent Part-time and Part-time non-exempt employees (not covered under a CBA) are to be paid an overtime rate for working on an approved holiday. Such shift must be approved by the Department Head.

## **C. Pay Day**

Employees are paid on a bi-weekly basis on Thursday in accordance with the payroll schedule established at the beginning of each fiscal year.

## **D. Direct Deposit**

Direct deposit is available to all Town employees. Each pay day, employees receive a deposit statement indicating gross pay, taxes, deductions and net pay. Employees are encouraged to elect direct deposit and should provide current banking information to the Treasurer/Collector's Office.

## **E. Breaks**

Employees are entitled to a 30-minute, unpaid lunch break. An employee may elect to voluntarily work through lunch. If such an election is made, said period will be paid and will be calculated as hours worked for the purposes of calculating overtime.

## **CHAPTER IX**

### *EMPLOYEE LEAVE POLICIES*

#### **A. Application of Article**

The provisions of this Chapter are applicable to all employees except when the provisions herein are in conflict with an applicable collective bargaining agreement or employment contract and except as applied to elected officials or school employees.

Regular employees, working for the Town one thousand forty (1,040) hours or more during a fiscal year are eligible to participate on a prorated basis in fringe benefit programs offered by the Town unless otherwise indicated.

Leave for union employees, is based on the provision of various respective collective bargaining agreements. Non-union compensation is established through the Town's Classification and Compensation plans.

#### **B. Holidays**

All permanent full-time and permanent part time employees, who are in a pay status immediately prior to, and after said holiday, shall receive their regular hourly rate for the number of hours equal to his/her regular daily work schedule for the following eleven (12) holidays:

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

Official Holidays shall be observed on those dates as specified by federal or state law.

1. Holidays that occur on a weekend shall be observed as follows: Saturday holidays will be observed on Friday before and Sunday holidays will be observed on the next Monday.
2. Employees required to work on a holiday shall receive holiday pay, as defined above, in addition to their regular hourly rate for all hours actually worked on said

holiday; or, in the alternative, an additional vacation day subject to the approval of the Department Head, on a mutually agreed upon day to be used within thirty (30) days of said holiday.

The Department Head will determine the number and categories of employees needed for holiday work. Any employee who is scheduled to work on a holiday and who does not report for work on said day shall not receive holiday pay but shall be charged as being absent without leave unless said absence is based on an extreme emergency situation and is excused by the Department Head.

3. Holidays falling during an employee's scheduled vacation, shall not be charged as a vacation day.

### **C. Benefits During Unpaid Leave**

During an approved leave of absence without pay, group medical and dental insurance coverage may continue, but the employee will be responsible for paying the cost of the premiums while on leave. It is important to make arrangements with the Treasurer/Collector's Office in advance to ensure uninterrupted coverage.

Group Life Insurance will continue at no cost to the employee during an approved leave. Any supplemental insurance elections can be maintained if the employee makes arrangements with the Treasurer/Collector's Office to cover the premiums due.

Contributions to the retirement plan will be discontinued during an unpaid leave, as well as vacation and sick leave accruals.

### **D. Religious Holidays**

The Town of Newbury does not discriminate against employees because of their religious beliefs. The Town will make reasonable accommodation for the religious practices of employees, including modifying an employee's work schedule to enable the employee to have certain religious days off.

Employees wishing to observe religious holidays not listed herein, shall at their request be given time off without pay or have the time charged as a vacation or personal day.

### **E. Vacation Leave**

All full time and permanent part time employees shall accrue paid vacation leave from date of hire.

Employees will accrue their annual vacation leave allotment on a monthly basis. Vacation time used will be recorded on an hourly basis. Vacation leave is not available for use until the employee has completed six (6) months of continuous employment with the Town of Newbury and is subject to approval of the appropriate Department Head or appointing authority as provided herein.

The Department Head or the Town Administrator has the exclusive right to decide and approve when vacation time is to be taken by an employee.



Employees with available and accrued vacation hours may request Vacation Leave at any time.

Requests for unearned Vacation Leave will not be granted; however, the employee may be granted requested time off without pay.

Accrued and unused vacation time will be paid to the employee upon Termination of Employment, retirement or to the employee's estate upon death.

### **1. Computation of Vacation Leave**

All full time and permanent part time employees are entitled to vacation time as follows, which shall accrue at a rate of 1/12 of said employee's yearly entitlement per month:

<u>Years of Completed Service</u>	<u>Yearly Entitlement</u>
Employed 6 months, but less than 5 years	2 weeks*
Employed 5 years, but less than 10 years	3 weeks*
Employed 10 years or more	4 weeks*

Permanent part-time employees shall be entitled the above-specified annual vacation which shall be pro-rated in accordance with their regularly scheduled total weekly hours. Vacation leave is not awarded to non-permanent part-time, fractional, or seasonal employees.

#### **a. Scheduling of Vacation Time**

Employees and their supervisors are mutually responsible for planning and scheduling the use of employees' vacation time. Employees should request vacation time in a timely manner, and supervisors should provide timely responses to employees' requests. Supervisors are responsible for the overall planning, coordination, and approving of their employees' vacation time throughout the year so that the Town's mission and employees' needs are met, and so that employees do not have a significant amount of vacation time that must be used or forfeited.

When an employee makes a timely request for leave, the supervisor should approve the request and schedule the leave at the time requested by the employee **or**, if that is not possible because of project related deadlines or the Town's workload, said supervisor must schedule it at some other time.

#### **b. Vacation Carry-Over**

Employees may carry over any unused vacation days into the next fiscal year so long as they are used within 90 days of the beginning of the new fiscal year.

## **F. Sick Leave**

Sick leave is a benefit limited to absences caused by illness, injury, exposure to contagious disease, illness of a member's immediate family, or illness or disability arising out of or caused by pregnancy or childbirth. For the purpose of this section, immediate family shall consist of spouse or domestic partner, parents, step parents, child and or step child.

Employees shall be entitled to sick leave without loss of pay if the employee has notified his/her supervisor or designee of the absence within one (1) hour of the start of the work day, or as soon thereafter as practicable. Failure to do so will result in forfeiture of pay.

The Department Head is authorized to approve or disapprove sick leave. An employee who is absent from duty on account of illness or injury shall notify the person authorized to approve sick leave of the reason for their absence before or at the beginning of their scheduled tour of duty. Sick leave not in excess of three (3) consecutive workdays will ordinarily be approved without a medical certificate from the employee's licensed health care provider.

In those cases when sick leave is in excess of 3 consecutive workdays, or that indicate excessive absence on account of sickness, or where there appears to be an abuse of the sick leave privilege, information from the employee's licensed health care provider may be required for any absence attributable to sickness, stating that the employee was unfit to perform their duty. In those cases when an employee's request for sick leave is not approved, the absence shall be considered to be unauthorized, and the employee shall receive no pay for the period of such absence.

If an employee uses sick leave for purposes other than legitimate illness or non-working injury as well as in an excessive manner, the employee may, at the sole discretion of the Town, be subject to disciplinary action up to and including termination of employment.

Any portion of such allowance not used in any leave year by an employee shall accumulate to allowed limits according to years of service, indefinitely throughout employment with the Town.

### **Computation of Sick Leave**

Sick leave is computed on an employee's regularly scheduled base hours based on twenty-six (26) pay periods in a fiscal year equaling fifty-two (52) weeks per year. All full-time and permanent part-time employees shall accrue paid sick leave from the first day of duty. Full time employees earn sick leave at the rate of ten (10) hours per month. Permanent Part time employees earn computed sick time on a pro-rated basis, equal to (one) 1 day per month based on their average daily work schedule.

Sick leave shall be cumulative from year to year up to a limit of 960 hours for full-time employees and 96 days of the daily prorated amount above for permanent part-time employees.

An employee who has unused sick leave to their credit at the time their employment with the town is terminated shall not be paid for such leave.

An employee shall not be entitled to use any of his/her sick leave until he/she has been employed by the Town for ninety (90) consecutive calendar days. After completing said ninety-day period,

the employee may use any sick leave he/she has accrued, subject to the strictures of this section.

The Town, in its exclusive discretion, reserves the right to request a written certificate from the employee's physician to determine the employee's fitness for work following three (3) consecutive days of sick leave.

### **G. Special Leave with Pay**

Department Heads, with the prior approval of the Town Administrator, may grant or be granted special leave with pay and actual expenses to attend professional conferences, conventions or short schools, or to visit other communities in the interest of the Town, for which proper appropriation has been made. Such employees shall submit an itemized list of reimbursable expenses for such travel together with paid receipts which shall be the basis for any and all petitions or requests for reimbursement of expenses incurred to the Town Administrator. Reimbursements shall be issued to the applicant when approved by the Town Administrator.

### **H. Maternity/Paternity Leave**

The Town of Newbury grants maternity/paternity leave in accordance with the provisions of the Massachusetts General Law. All employees having completed at least ninety (90) days of full-time continuous service to the Town shall be granted eight (8) weeks of unpaid maternity/paternity leave without loss of seniority or benefits for the purpose of giving birth or adopting a child under the age of eighteen (18) or under the age of twenty-three (23) if the child is mentally or physically disabled. Upon expiration of the maternity/paternity leave, employees will be restored to the same or similar position.

In the event that the employee is eligible for both FMLA and maternity/paternity leave; that employee's leave will be charged to both forms of leave simultaneously.

Employees requesting leave pursuant to this policy must provide notice to the town at least two (2) weeks prior to the beginning of the anticipated leave, or as practicable if the delay is for reasons beyond the employee's control.

Employees are entitled to use any accrued vacation, sick, personal and compensatory time (non-exempt employees) during this period. If accrued vacation, sick, personal and compensatory leave extends beyond eight (8) weeks, employees will be entitled to use said leave up to a maximum of twelve (12) weeks in total. Employees are required to return to their positions when their leave expires if they are physically and mentally able or must provide a doctor's note stating their anticipated date of return.

### **I. Family and Medical Leave (FMLA)**

In accordance with the provisions of the 1993 Federal Family and Medical Leave Act (FMLA), employees having completed at least twelve (12) months of continuous service and who have worked at least twelve hundred fifty (1,250) hours during the preceding twelve (12) months, shall be entitled to take up to twelve (12) weeks of unpaid leave annually. All earned leave (vacation and sick) must be taken as part of the FMLA and leave will be charged to both forms of leave simultaneously.

For further details, visit the website: <https://www.dol.gov/whd/fmla/employeeguide.pdf>

## **J. Military Leave**

The Town shall adhere to the requirements of Uniformed Services Employment and Reemployment Rights Act (“USERRA”).

## **K. Bereavement Leave**

Employees shall be granted a leave of absence with pay in the event of death in their immediate family. “Immediate family” shall consist of spouse or domestic partner, parents, brother, sister, child, step children, spouse’s/partner’s father or mother, step-parents, step siblings, grandparents, grandchildren, sister or brother-in-law, aunt, uncle, niece, nephew, first cousins and son or daughter in-law. Such leave may be extended from the time that the employee receives notification of the death to the first day following the day of the funeral or memorial service, not exceeding a period of three (3) days. Accrued vacation time may be used toward any additional time out required/necessary in excess of three (3) consecutive working days. Use of Bereavement Leave and accrued vacation time are subject to the approval of the Department Head.

## **L. Court Leave**

1. A full-time or permanent part-time employee called for jury duty shall be paid the difference between their regular pay and the compensation received by them as a juror, exclusive of travel allowances. All other employees shall be paid their regular wages for the first three days, or part thereof, of juror service as provided in G.L. c.234A.
2. An employee summoned as a witness on behalf of the Town shall be granted leave and shall be paid the difference between his/her regular pay and his/her witness fees, exclusive of travel allowances.
3. An employee who is required to appear in court as a defendant or a litigant, or who is required to appear as a witness in court under compulsory legal process, unless such appearance is on behalf of the Town, shall use any unused vacation time for such appearance. If no unused time is available, the employee may be granted leave without pay for such appearance. Use of sick leave is prohibited in these circumstances.

## **M. Leave to Vote**

All employees entitled to vote at National, State, Municipal or Special Elections shall, when necessary, shall be allowed sufficient time off, with pay, to exercise this right.

## **N. Absence Without Leave**

An employee who fails to appear for work for any reason shall be required to notify the Department Head stating a reason for such absence. Failure of an employee to comply with this regulation may result in disciplinary action, up to and including termination from employment. Such notification by the Department Head and employee shall be made part of the employee’s personnel record.

## **O. Small Necessities Leave Act**

In accordance with MGL, Chapter 149, Section 52D, employees who are eligible employees can take up to twenty-four (24) hours of unpaid leave during a twelve (12) month period to:

- 1) Participate in school activities directly related to the educational advancement of a son or daughter such as parent teacher conferences)
- 2) Accompany a son or daughter of the employee to routine medical or dental appointments
- 3) Accompany an elderly relative of the employee to routine medical or dental appointment(s) or appointment(s) for other professional services related to the elder's care.

The twenty-four (24) hours of leave provided by this Act is in addition to the time provided by the FMLA. As with the FMLA, the leave can be without pay, or with use of paid leave if the employee so elects. The Small Necessities Leave may be taken intermittently or on a reduced leave schedule. If the necessity for leave under this section is foreseeable, the employee shall provide the Town with not less than seven (7) days written notice before the date of the leave is to begin. If the leave is not foreseeable, the employee shall provide the Town with such notice as is practicable.

## **P. Domestic Leave**

In the case of abuse of a family member, the employee is not entitled to leave if he or she is the alleged perpetrator. Family member for the purpose of this section (Domestic Leave) shall include parents, siblings, children, spouse and step-parents, or any individuals under the care and custody of the employee or any individuals who reside in the same residence.

Notice: Except in cases of imminent danger to the health or safety of an employee (or employee's family member), employees are required to provide the Town Administrator or the Human Resources Board employee representative with at least one week's advance notice, in writing, of the employee's intent to take domestic violence leave.

In cases of imminent danger, the employee must notify the Town Administrator within three (3) workdays that the leave was taken or is being taken under the Domestic Violence Law. Such notification may be communicated by a family member, counselor, social worker, advocate, member of the clergy, or other professional assisting the employee in addressing the effects of the abusive behavior on the employee or the employee's family member. The employee or authorized individual may communicate the purpose of the leave to the Town Administrator by telephone, in person, in writing, or by other reasonable means of communication.

The Town of Newbury requires documentation showing that an employee or employee's family member is a victim of domestic violence and that the employee is taking leave consistent with the law and this policy. An employee may satisfy this request by producing any of the following documents within a reasonable period of time, not to exceed thirty (30) days:

- Protective order, order of equitable relief, or other documentation issued by a

court as a result of the abusive behavior against the employee or family member;

- A document under the letterhead of a court, provider, or public agency which the employee attended for the purposes of acquiring assistance as it relates to the abusive behavior against the employee or the employee's family member;
- A police report or statement of a victim or witness provided to the police;
- Documentation that the perpetrator of the abusive behavior has: admitted to sufficient facts to be found guilty of, or been convicted of, or adjudicated a juvenile delinquent by reason of, any offense constituting abusive behavior and which is related to the abusive behavior that necessitated the leave;
- Medical documentation of treatment as a result of the abusive behavior;
- A sworn statement, signed under the pains and penalties of perjury, provided by a counselor, social worker, health care worker, member of the clergy, shelter worker, legal advocate or other similar professional who has assisted the employee or the employee's family member in addressing the effects of the abusive behavior; or
- A sworn statement, signed under the pains and penalties of perjury, that the employee or the employee's family member is a victim of abusive behavior.

**Payment of Wages on Leave** - An employee must use any accrued vacation leave, personal leave and sick leave available to him or her during this leave. If all paid leave has been exhausted, unpaid leave may be taken.

**Confidentiality of Leave Request** - All information provided by the employee concerning a request for leave under this Act shall be kept confidential by the Town of Newbury. The Town shall not disclose any information related to an employee's request for leave, except to the extent that disclosure is:

- requested or consented to, in writing, by the employee;
- ordered to be released by a court;
- otherwise required by applicable federal or state law;
- required in the course of an investigation authorized by law enforcement; or
- is necessary to protect the safety of anyone employed at the workplace.

**Return to Work** - Employees who take leave pursuant to this Policy will be restored to their original or equivalent position upon return from leave unless circumstances unrelated to the employee's use of leave would have caused a change in employment status.

**No Retaliation** - The Town shall not discharge or in any other way discriminate or retaliate against an employee for exercising his/her rights under this policy, provided that the employee

provides qualifying documentation to support his/her leave within thirty (30) days from commencement of the leave. A qualified employee taking leave under this policy shall not lose any benefit accrued prior to the taking of leave and will be restored to the same or equivalent position upon return.

**CHAPTER X**  
*APPOINTMENTS, PROMOTIONS, TRANSFERS, RESIGNATION*

**A. Equal Employment Opportunity**

The Town of Newbury is conscious of its responsibility to eliminate discriminatory barriers to employment based on race, color, religious creed, national origin, sex, gender identity, sexual orientation, genetic information, pregnancy or a condition related to said pregnancy, ancestry or veteran status. The Town will continue to direct its employment and personnel practices toward ensuring equal employment opportunity for everyone. The Town intends that all matters related to recruiting, hiring, training, compensation, benefits, promotion, transfer, layoffs, Town- sponsored educational, social, and recreational programs, discipline, discharge, and all treatment on the job be free of discriminatory practices.

An employee, who feels that they may have been discriminated against in violation of the law, should immediately contact his/her Department Head, the Town Administrator, or the Human Resources Board.

**B. Recruitment**

It is the policy of the Town to fill each position with the most qualified person. Vacancies may be filled by promotion or transfer within the organization if in the best interest of the Town. After approval by the Town Administrator and the Human Resources Board of a vacancy to be filled, the Department Head shall advertise the vacancy to be filled. Said advertisement shall be placed in a newspaper, having local distribution in the Town, the Town's website and any appropriate social media and shall identify the vacancy to be filled, the compensation range, and a brief description of the duties of the position, and the minimum qualifications for appointment; and it shall set forth the time and place where and when such application may be filed. The provisions of this section shall not be in force during an emergency in the Town declared pursuant to the Civil Defense Act.

New employees may be required to meet minimum physical requirements required for a position as described in the job description and may be required to be examined by a licensed physician selected by the Town Administrator and Human Resources Board.

All employees shall be required to notify their Department Head of any change in address, and shall forward the same to the Town Clerk, Treasurer/Collector, the Town Administrator, and the Human Resources Board to be filed the personnel file.

**C. Application**

**1. Application and Background Check**

Except as specially provided otherwise in these rules or the Town's Personnel Bylaw, no person shall be appointed to any position unless they have (1) filed a completed application,



(2) qualified by passing any required examination or background check as established by the Town Administrator and Human Resources Board, and (3) certified for appointment according to these rules.

## **2. Physical Examination**

If the Town extends a preliminary offer of employment, applicants may be required to submit to a physical examination, the results of which shall remain part their file. Said examination may be completed by the applicant's physician or one selected by the Town. Said physician must be provided a copy of the job description for which the applicant is applying.

## **3. Other Examinations**

Examination shall be in such a form as will fairly test the abilities and aptitudes of candidates for duties to be performed. Examinations may include written, oral, physical, or performance test, or any combination of these, which may take into consideration reasonable factors such as education, experience, aptitude, knowledge, character, physical fitness or any other qualification determined to be appropriate to judge the relative fitness of applicants to perform the required duties of the job vacancy.

## **4. Criminal Offenders Record Information (CORI)**

In accordance with Massachusetts General Law, all sworn police and applicable department employees must complete a nation-wide criminal background examination through finger printing as a condition of employment. All other Town employees must complete a State of Massachusetts background examination as a condition of employment. The examination process is administered by the Town.

## **D. Probationary Period**

All employees are subject to a Probationary Period of six (6) months from date of employment unless described differently in a Town collective bargaining agreement or state law, during which time the employee shall actually perform the duties of such position.

A Probationary Period may be extended for a period not to exceed six (6) months upon written request of the Department Head and approved by the Town Administrator and Human Resources Board. A Probationary Period shall not exceed a total of twelve (12) months, except for employees subject to a longer probationary period per a Town collective bargaining agreement or state law.

The Department Head shall use the Probationary Period to closely observe and evaluate the work of all employees newly employed and to encourage their effective adjustment to the job, and the service of the Town. The completion of a probationary period does not change the nature of the employment-at-will relationship.

A new employee may be dismissed without recourse to appeal rights at any time during the Probationary Period if the Town becomes aware of any questionable information relative to previous employment or if the quality of his/her work is not such as to merit continuation in the

service of the Town and such termination is approved by the Town Administrator.

During the Probationary Period when an employee is found to be unfit or unqualified for, or incapable of, performance of the duties of the position which they seek to hold, or is abusing narcotics or other intoxicants, or has an unsatisfactory previous employment record, or has failed to submit pertinent information requested by the Town Administrator, or has practiced fraud or deception in obtaining this employment, or made false statements in their application, the Department Head shall recommend to the Town Administrator termination of their employment with the Town after such findings.

#### **E. Vacancies**

Appointments shall be open to any qualified applicant and announcements for such position shall be posted on appropriate bulletin boards and advertised in a paper and/or electronic media. This does not preclude the placement of job announcements in other locations.

#### **F. Promotional Opportunities**

Vacancies in a position above entry level may be filled by promotion whenever it is in the best interest of the Town to do so and promotions shall be on a competitive basis. If the position should not be filled from within existing personnel, public announcement and open competitive process should be followed as previously stated.

Announcement of promotional vacancies shall be posted on appropriate bulletin boards. Individuals seeking promotion must file an application with the Town Administrator's Office.

In the event an employee is promoted from one position in the Classification Plan to another position in said plan in a higher grade, the employee shall receive an increase in compensation as determined by the Town Administrator. Such rate of pay will not be more than the maximum rate of pay established by the Classification Plan for the grade of that position.

#### **G. Temporary Promotion**

Employees filling in for a senior person on a "temporary" basis for less than ten (10) working days will not receive special pay consideration during or after the completion of the temporary assignment. Employees filling in for a senior person for a period of time greater than ten (10) working days may receive special pay consideration during or after completion of the special assignment. The level of compensation shall be determined by the Town Administrator and will be based on the length of the assignment, the level of employee's performance and the classification level of the senior position.

#### **H. Transfer**

When it is in the best interest of the Town an employee may be transferred by the Town Administrator, either voluntarily or involuntarily, within the department, or to a different department.

An employee who is transferred from one (1) department to another with the same grade and comparable position will be placed at the same rate of pay in the new department.

## **I. Demotion (Voluntary and Involuntary)**

A demotion takes place when a position is reclassified or an employee is assigned to a position in a lower classification level, either for disciplinary reasons or when it is determined that the employee cannot meet the performance requirements of their position. The demoted employee must be able to meet the requirements of the lower position.

An employee may be demoted, for just cause, with the approval of the Town Administrator. Demotion may be accomplished by a reduction of pay within the classification or by reassignment to a position in a lower classification, or both. An employee who is demoted shall be given a written notice by the Department Head or supervisor of the reasons for the action.

An employee may request or accept voluntary demotion when assignment to less difficult or require less responsibility, as may be appropriate.

In the event that an employee should be moved or volunteer to be moved from a position with a higher grade and salary to a position with a lower salary and grade, unrelated to disciplinary action or performance, that reduction shall be considered a non-punitive reduction in grade and salary as opposed to a demotion. Examples of events leading to such reduction could be, but not limited to, assuming a new position after lay-off, voluntary reduction in grade and step for budgetary reasons of the Town, or reorganization within a department of the Town. The payroll record should note that said demotions are non-punitive.

## **J. Requirements for Employment, Promotion and Transfer.**

Conditions - The employment, promotion and transfer of Town employees shall be subject to the following conditions:

1. No full-time employment in or transfer to a paid appointive position in the service of the Town shall take effect until the same has been approved by the Human Resources Board as being in compliance with the Classification Plan, Compensation Plan and other provisions of this by-law. In the case of an emergency declared by the Town Administrator, a Department Head may, subject to the limitations of the department's appropriations and without prior approval of the Board, employ on a temporary or part time basis employees in positions at the minimum rate of the appropriate wage schedule.
2. No employment or promotion hereunder shall become effective until such time as the appropriation or other funds out of which the compensation is to be paid shall be sufficient.
3. All promotions or upgrades must be approved by the employee's department head and/or the appointing authority of the Town prior to approval by the Human Resources Board and followed by approval from the Town Administrator.
4. If any candidate for employment by the Town shall refuse to take the oath or affirmation required by Section 14 of Chapter 264 of the General Laws, as amended, the Human Resources Board shall refuse to approve his employment.

## **K. Resignation from Employment**

An employee must give his/her Department Head at least two (2) weeks' notice in writing of intent to resign from his/her position. No paid leave for scheduled work times shall be paid after notice of resignation is given unless waived by the Department Head with approval of the Town Administrator. Notice of resignation shall be filed with the Department Head, Town Administrator and Town Clerk.

## **L. Lay-Offs/Reduction in Force**

Any involuntary separation not involving delinquency, loss of certification, required ability, misconduct or inefficiency is considered a lay-off.

When it becomes necessary to reduce the workforce, the Town has the sole authority to determine which positions will be eliminated or reduced based on the best interests of the Town. Employees whose employment is terminated in accordance with this section will be considered for re-employment with the Town in the reverse order of their termination for a period of one (1) year from the effective date of their termination if they remain qualified to perform all of the duties of their previous position, or are qualified for a different position, with the Town. An employee who is restored to permanent duty within one (1) year of the effective termination date shall have any unused leave benefits that the employee may have accumulated at the time of his/her termination restored.

## **CHAPTER XI**

### **CODE OF CONDUCT**

**Violation of ANY of the following personnel policies may result in disciplinary action up to and including termination from employment with the Town.**

#### **A. Equal Employment Opportunity and Non-Discrimination**

Federal and state laws prohibit discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral and other aspects of employment on the basis of race, color, religious creed, national origin, sex, gender identity, sexual orientation, genetic information, pregnancy or a condition related to said pregnancy, ancestry or veteran status unless based upon a bona fide occupational qualification, or where a qualified disabled individual is unable to perform the essential requirements of their job without reasonable accommodation.

#### **B. Conflicts**

All employees, Board, Committee and Commission members of the Town of Newbury shall be aware of, and abide by, the State's Conflict of Interest Law and Code of Ethics training program, which is designed to ensure that a public employee's private financial interests and relationships do not conflict with their public obligation to act objectively and with integrity. These laws and training programs are broadly written to prevent a public Employee (including Board, Committee and Commission members) from becoming involved in a situation that could result in an actual conflict or give the appearance of a conflict.

- The Town Clerk shall distribute a summary of the Conflict of Interest Law upon start date, and annually thereafter, to all Employees, Board, Committee and Commission members, who shall acknowledge receipt in writing.
- The Town Clerk shall distribute to all Employees, Board, Committee and Commission members within 30 days after start date, and every two years thereafter, directions to the online Code of Ethics training developed by the Massachusetts State Ethics Commission. Upon completion of the online training program, individuals shall provide acknowledgement of completion, to be retained for six years by the appropriate employer.
- The Town Clerk shall distribute to all Board, Committee and Commission members upon start date, and annually thereafter, the Open Meeting Law materials, which include the requirements of the Open Meeting Law and the consequences of violating said Law. All Board, Committee and Commission members shall acknowledge receipt and understanding of the Open Meeting Law in writing.

All Employees, (including Board, Committee and Commission members) regardless of paid or unpaid status, shall not engage in any business or transaction, have a financial or other personal interest (direct or indirect) which is incompatible with the proper discharge of their official duties in the public interest or would tend to impair their independence of judgment or action in the performance of their official duties. Personal, as distinguished from financial interests, includes an interest arising from blood or marriage relationships, close business or political associations.

### **C. Political Activity**

M.G.L. Chapter 55, Section 13 prohibits paid state, county, city or town employees, other than elected officials, from directly or indirectly soliciting or receiving any contributions or anything of value for any political purpose. “Political purpose” includes fundraising activity on behalf of any candidate or political committee, including parties, PACs, people’s committees (an offshoot of PACs) and ballot question committees on any level – local, state or federal.

Nothing herein contained shall be construed to restrict the right of an employee to hold membership in and support a political party, to vote as he/she chooses, to express opinions on all political subjects and candidates, to maintain political neutrality, to attend political meetings after working hours or to campaign actively during off-duty hours in all areas of political activity, except fundraising. It is considered to be in the best interest of all municipal employees that they shall not be pressured by direct or indirect political influences. As a safeguard against this, the behavior on the part of municipal employees shall be as follows:

1. All employees shall refrain from using their influence publicly in any way for or against any candidate for elective offices during work hours. They shall not circulate petitions or campaign literature for elective officials or be in any way concerned with soliciting or receiving any subscription, contribution, or political service from any person for any such elective official.
2. No officer or employee of the Town shall use their official authority or influence on any other officer or employee for the purpose of interfering with an election or a nomination for office or affecting the result thereof (except by casting their vote).
3. No officer or employee of the Town shall directly or indirectly coerce, attempt to coerce, command, or advise any other said officer or employee to pay, lend, or contribute any part of their salary, time, or compensation, or anything else of value to any party, committee, organization, agency, or person for political purposes.

### **D. Dress Code**

Employees are expected to maintain the highest standards of personal cleanliness and present a neat, professional appearance at all times. When job responsibilities place employees in direct contact with town officials, state officials, legislators or the public, they represent the Town with their appearance as well as their actions. Employees who are improperly attired may be required to leave work to change their attire. The following attire is not appropriate office attire: shorts, sweat clothes, halters, tank tops, spandex, jeans, sneakers, low neckline front or back, flip flops, foam clogs such as crocs, slippers, clothing that has words, pictures or scenes that would be disruptive to the workenvironment, excessive piercing, tattoos, and or excessive make up, cologne or perfume. It is understood that employees may wear protective clothing if required to work outdoors.

For those employees whose job duties require them to perform site visits in addition to working in a Town office setting, including without limitation, conservation agents, building inspectors and health agents, their on-site attire may include durable works pants and jeans, every other restriction in the foregoing paragraph still applies.

The examples listed above are not meant to be comprehensive; but are only examples of dress code violations that may result in disciplinary action being taken by the Town up to and including termination from employment with the Town.

#### **E. Disability Accommodation**

The Town of Newbury is committed to complying with all applicable provisions of the Americans with Disability Act (“ADA”). It is the Town of Newbury’s policy not to discriminate against any qualified employee or applicant because of a disability or perceived disability so long as the employee can perform the essential functions of the job. The Town of Newbury will provide reasonable accommodations to a qualified individual with a disability, as defined by the ADA, who has made the town aware of his or her disability, provided that such accommodation does not constitute an undue hardship on the Town.

Employees with a disability who believe they need a reasonable accommodation to perform the essential functions of their job should formally request in writing an accommodation from their manager. The Town of Newbury encourages individuals with disabilities to come forward and request reasonable accommodations.

#### **F. Non - Harassment Policy**

The Town of Newbury is committed to maintaining a work environment free of harassment based on race, color, religious creed, national origin, sex, gender identity, sexual orientation, genetic information, pregnancy or a condition related to said pregnancy, ancestry or veteran status and free of sexual harassment (MGL Chapter 151B, Section 3A). The harassment of individuals in these categories will not be tolerated. All employees are to conduct themselves in a professional manner and show concern for fellow employees and customers.

Harassment is unwelcome conduct that is based on race, color, religious creed, national origin, sex, gender identity, sexual orientation, genetic information, pregnancy or a condition related to said pregnancy, ancestry or veteran status. Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance. Harassment can occur in a variety of circumstances, including, but not limited to, the following:

- The harasser can be the victim's supervisor, a supervisor in another area, an agent of the employer, a co-worker, or a non-employee.
- The victim does not have to be the person harassed but can be anyone affected by the offensive conduct.
- Unlawful harassment may occur without economic injury to, or discharge of, the victim.

Harassment in the workplace is unlawful and will not be tolerated by the Town.

#### **Reporting Harassment/Complaint Procedure/ Investigation**

Employees, supervisors and Department Heads are responsible for ensuring that harassment is absolutely not tolerated in the workplace and for cooperation in any investigation of such harassment.

### **Complaint Procedure**

Any employee having a complaint of harassment, or one that has learned about harassment of another individual should notify their Department Head, Town Administrator or any appropriate employee representative on the Human Resources Board. If the complaint pertains to the immediate supervisor, and the employee does not wish to discuss the issue with them or the supervisor does not address the problem, the employee should notify:

Town Administrator  
Newbury Town Hall  
12 Kent Way  
Byfield, MA 01922  
978.465.0862

The Town of Newbury will promptly investigate every complaint of harassment which may include discussion with all involved parties, identification and questioning of witnesses, and other appropriate actions.

### **Disciplinary Action**

Disciplinary action will be taken against anyone found to have harassed another employee to ensure the action(s) will not be repeated. Documentation of disciplinary action will be placed in the offending employee's personnel file and may include, but is not limited to, written reprimands, warnings, transfers, demotions, suspensions, professional counseling and/or sensitivity training, probation and possible termination of employment.

### **Retaliation**

Retaliation against an individual who has complained about harassment or retaliation against individuals for cooperating with an investigation of a harassment complaint is unlawful and will not be tolerated by the Town. Individuals who retaliate are subject to the disciplinary action listed above.

### **Other Remedies**

Any individual who is dissatisfied with the progress or conclusions of the Town's investigation may discuss their concern directly with the Human Resources Board. The Human Resources Board will hear any appeals of the investigation process.

### **Reporting Agencies:**

The state agency responsible for enforcing the laws prohibiting harassment is:



Massachusetts Commission Against Discrimination (MCAD)

One Ashburton Place  
Sixth Floor, Room 601

Boston, MA 02108

Phone: 617-994-6000

Fax: 617-727-6053

TTY: 617-720-6054

<http://www.state.ma.us/mcad/>

TTY: 1-800-669-6820

## **G. Sexual Harassment**

It is the goal of the Town of Newbury to promote a workplace that is free of sexual harassment. Sexual harassment of employees occurring in the workplace or in other settings in which employees may find themselves in connection with their employment is unlawful and will not be tolerated by this organization. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unlawful and will not be tolerated. To achieve our goal of providing a workplace free from sexual harassment, the conduct that is described in this policy will not be tolerated and we have provided a procedure by which inappropriate conduct will be dealt with, if encountered by employees.

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

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

Each employee is required to acknowledge receipt and understanding of the Town's Sexual Harassment Policy annually.

### **1. Definition of Sexual Harassment**

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

- a. submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or,
- b. such advances, requests or conduct have the purpose or effect of unreasonably interfering

with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

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

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to male or female workers may also constitute sexual harassment. While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

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

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

## **2. Complaints of Sexual Harassment**

If any of our employees believes that he or she has been subjected to sexual harassment, the employee has the right to file a complaint with the Town of Newbury. This may be done in writing or orally.

Any employee having a complaint of harassment, or one that has learned about harassment of another individual should notify their supervisor or Department Head. If the complaint pertains to the immediate supervisor, and the employee does not wish to discuss the issue with them or the supervisor does not address the problem, the employee should notify:

Town Administrator  
Newbury Town Hall  
12 Kent Way  
Byfield, MA 01922  
978.465.0862

The Town of Newbury will promptly investigate every complaint of harassment which may

include discussion with all involved parties, identification and questioning of witnesses, and other appropriate actions.

### **3. Sexual Harassment Investigation**

When we receive the complaint we will promptly investigate the allegation in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. Our investigation will include a private interview with the person filing the complaint and with witnesses. We will also interview the person alleged to have committed sexual harassment. When we have completed our investigation, we will, to the extent appropriate inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

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

### **4. Disciplinary Action**

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

### **5. Other Remedies**

Any individual who is dissatisfied with the progress or conclusions of the Town's investigation may discuss their concern directly with the Human Resources Board. The Human Resources Board will hear any appeals of the investigation process.

### **6. Reporting Agencies:**

In addition to the above, if you believe you have been subjected to sexual harassment, you may file a formal complaint with either or both of the government agencies set forth below. Using our complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies has a short time period for filing a claim (EEOC - 300 days; MCAD - 300 days).

The state agency responsible for enforcing the laws prohibiting harassment is:

Massachusetts Commission Against Discrimination (MCAD)

One Ashburton Place

Sixth Floor, Room 601

Boston, MA 02108

Phone: 617-994-6000

Fax: 617-727-6053

TTY: 617-720-6054

<http://www.state.ma.us/mcad/>

The federal agency responsible for enforcing the laws prohibiting harassment is:

Equal Employment Opportunity Commission (EEOC)  
John F. Kennedy Federal Building  
475 Government Center  
Boston, MA 02203  
Phone: 1-800-669-4000  
Fax: 617-565-3196  
TTY: 1-800-669-6820

## **H. Workplace Privacy**

The workplace is intended to be a place of work. An important part of work is communications and record keeping. No employee is at work twenty-four (24) hours a day, seven (7) days a week, and there are times when management needs access to communications or records maintained by employees in their individual work spaces. Personal items and personal communications received or stored on Town premises or Town equipment are not entitled to a guarantee of privacy. Management reserves the right to search Town property and documents in employee desks, lockers, file cabinets, and any area deemed necessary under this provision.

The Town provides electronic and telephonic communication and when necessary, computers to employees. Although assigned to employees, these items belong to the Town. Similarly, any computer files created on a Town computer belong to the Town. Employees should not use Town computers for personal business without the express written permission of the Town. The Town reserves the right to review voice mail, electronic mail, computer files and other electronic information generated by or stored in the Town's electronic systems.

## **I. Computer/Internet Policy**

The purpose of this policy is to ensure the proper use of the Town of Newbury's telecommunication systems which includes telephones, facsimile machines, computers, printers and other peripherals, programs, electronic mail, networks, web site, Internet, cellular phones, radios and pagers. This policy may be updated from time to time and amended at the discretion of the in accordance with the Town's Personnel Bylaw.

The following computer use is absolutely forbidden:

1. To access any material which the Town considers pornographic;
2. To purchase goods or services, even if charged to the employee's personal credit card;
3. To transmit or knowingly accept receipt of any communication which is pornographic, obscene or which in the Town's opinion might contribute to a hostile work environment in that it demeans individuals on the basis of race, sex, age, national origin, disability or some similar distinction; or
4. To conduct personal business.

**Important Notice:** The Town has the capacity to examine computer usage of individual

employees in detail. Even though the item has been “deleted” and the employee cannot retrieve it, does not mean that the Town cannot do so. It is also possible to generate a report of every Internet connection made by the user and of how much time was spent in each connection.

The Town’s workplace privacy policy prohibits the use of the Town’s computers for personal business without the express written permission of the Town. Each employee is required to acknowledge receipt and understanding of the Town’s Computer/Internet Policy annually.

Employees who use personal electronic equipment including but not limited to cell phones, pagers, camera phones and computers on Town property, or at town work sites, to engage in conduct which would be prohibited if conducted using Town equipment, will be considered to have violated this policy.

## **J. Social Media**

This section describes acceptable and unacceptable uses of all Social Media by Employees and Officials of the Town both on and off duty. Employees and Officials should use their best personal judgment when using any form of Social Media and must ensure that their use does not violate this or any other Town policy.

While Employees and Officials may use Social Media while off-duty, their status as Employees and Officials of the Town requires that the content of any postings on those Social Media sites or other web pages not be in violation of existing Town by-laws, policies, directives, rules or regulations. The Town’s image as a professional organization is vital to maintaining the respect of its constituents. Although the Town recognizes that Employees and Officials may choose to express themselves by posting personal information and/or commenting on Social Media, this right of expression is not free from limitation. That is, while the Town acknowledges its Employees and Officials have the First Amendment right to free speech, that right is not absolute and extends only to matters of public concern contributing to public discourse. Therefore, Employees and Officials must exercise caution with respect to comments they post in general and, in particular, those comments concerning the Town, a department of the Town, and/or the Town’s Employees.

Except as otherwise required by the Department Head or as part of an Employee’s job duties, the use of Social Media while on duty is prohibited.

Employees’ and Officials’ use of Social Media is subject to the Town’s Harassment Policy as well as the Town’s other policies and standards of conduct, rules, regulations, and by-laws.

All use of Social Media must conform to the following regulations:

1. All Employees and Officials are expected and required to conduct themselves in a manner consistent with the Town’s policies and standards of conduct.
2. Employees and Officials must not reveal any confidential or privileged information about the Town, its constituents, or its contractors. Employees and Officials must be careful to protect against the inadvertent disclosure of confidential information.
3. Employees and Officials must not engage in harassment in contravention of the Town’s Harassment Policy regardless of the time, place, form, or manner in which the information is

posted or transmitted. Comments may be deemed to violate this Policy even if the Town's name or the names of any of its Employees are not posted in the comment.

4. Employees and Officials must make reasonable efforts that they are always honest and accurate when posting information or news, and if they make a mistake must correct it quickly. Employees and Officials may not post any information or rumors they know to be false about the Town, fellow Employees, constituents, suppliers, vendors, contractors or any other entities or individuals.

5. Employees and Officials may express only their personal opinions and should never represent themselves as a spokesperson for the Town unless specifically designated by the Town. Members of the Police and Fire Departments must abide by the chain of command. A spokesperson for the Police or Fire Department can only be authorized and designated by his or her Chief.

6. If the Town is a subject of the content created by an Employee or Official, the Employee or Official should be clear and open about the fact that he/she is an Employee or Official of the Town and should make it clear that his/her views do not represent those of the Town, fellow Employees, suppliers, vendors, or any other agent of the Town. Employees or Officials who publish blogs or other online posts related to the work they perform or subjects associated with the Town must make clear that they are not speaking on behalf of the Town.

7. Employees and Officials are expressly prohibited from using Social Media to engage in any activity or conduct that violates federal, state, or local law (e.g., software or data piracy, child pornography, etc.).

8. Officials and Employees should be aware that residents, property owners and others appearing before boards, commissions and committees or doing business in Town departments include persons of various races, religions, national origins, sexual orientations, genders, gender identities, or other legally protected classifications. Public comments in any forum, including on Social Media that contain slurs or express bigotry toward any one of the aforementioned classifications shall be considered conduct unbecoming and shall be subject to discipline, up to and including termination or removal.

9. Access to and use of Social Media must not interfere with an Employee's and Official's ability to perform the duties and responsibilities assigned. In so far as an Employee is permitted to use Social Media in the course of his/her employment as set forth herein, access to and use of Social Media must not interfere with an Employee's productivity.

10. Officials are prohibited from posting content in violation of the Open Meeting Law, including prohibitions against serial communications.

11. Employees and Officials are prohibited from using Social Media to engage in any activity that constitutes a conflict of interest for the Town or any of its Employees and Officials.

12. Department heads and supervisors are expressly prohibited from using any review or recommendation feature or system on a Social Media site (e.g., LinkedIn) to post reviews or other comments about subordinate Employees.

This policy is not intended to interfere with employee rights under Massachusetts General Laws Chapter 150E or First Amendment Rights of the U.S. Constitution.

#### **K. Solicitation and Distribution**

Town employees are prohibited from soliciting or distributing literature to any other employees of the town, engaging in discussion or advocating a position on behalf of an organization including any labor union or employee organization during their working hours or the working hours of the employee solicited. The term working hours in this section shall not include lunch breaks or other recognized work break time.

Employee contributions to recognized charitable organizations are purely voluntary. No coercion of an employee to make contributions shall be permitted.

#### **L. Use of Town Property**

An employee shall not use Town property, equipment or vehicles except in the performance of official duty, nor permit its use by an unauthorized person, either on or off duty.

#### **M. Workplace Violence**

The Town of Newbury maintains a zero-tolerance policy toward workplace violence, or the threat of violence, by any of its employees, customers, the public, or anyone who conducts business with the Town. It is the intent of the Town to provide a workplace that is free from the intimidation, threats or violent acts.

Workplace violence includes but is not limited to harassment, threats, physical attack or property damage. A threat is the explicit or implicit expression of intent to cause physical or mental harm regardless of whether the person communicating the threat has the present ability to carry out the threat and regardless of whether the threat is contingent, conditional or future. Physical attack is intentional hostile physical contact with another person such as hitting fighting, shoving, or throwing objects. Property damage is intentional damage to property that includes property owned by the Town, employees or others.

Prevention efforts include, but are not limited to, informing employees of this policy, instructing employees regarding the dangers of workplace violence, communicating the sanctions imposed for violating this policy and providing a reporting hierarchy within which to report incidents of violence without fear of reprisal.

Each incident of violent behavior, whether the incident is committed by another employee or an external individual such as a customer, vendor, or citizen must be reported immediately to department management or the Town Administrator. Management will assess and investigate the incident to determine the action to be taken. Department management must inform the Town Administrator of all reported incidents of workplace violence and will inform the employee of their right to have the Police Department notified. If an employee of the Town is alleged to have committed an act of violence, he/she will be placed immediately on leave of absence with pay pending the outcome of an investigation by the Town.

In critical incidents in which a serious threat or injury occurs, emergency responders such as

Police, Fire or Ambulance personnel must be promptly notified. As necessitated by the seriousness of the incident, the Town Administrator may assemble a Management Response Team that consists of staff from the affected Department and may include the Town's Substance Abuse Coordinator, Police Department and others as deemed necessary.

The Department Head or designee will orient all new employees to departmental procedures regarding reporting incidents of violence, what to do if the employee is threatened or if an incident of violence actually takes place and dealing with the after effects of an act of violence. Any employee who acts in good faith by reporting real or implied violent behavior will not be subjected to any form of retaliation or harassment. Any action of this type resulting from a report of violence must be reported to the appropriate management staff for investigation and decision regarding proper action.

## **N. Alcohol and Drug Policy**

The Town of Newbury has a strong commitment to its employees to provide a safe place to work and to establish programs promoting high standards of health. Consistent with the spirit and intent of this commitment, the Town of Newbury has established a policy regarding drug and alcohol use or abuse.

Each employee is required to acknowledge receipt and understanding of the Town's Alcohol and Drug Policy annually.

While the Town of Newbury has no intention of intruding into the private lives of its employees, the Town does expect employees to report to work in condition to perform their duties. The Town recognizes that employee off the job and on the job involvement with drugs and alcohol can have an impact on the work place and on our ability to accomplish our goal of an alcohol and drug-free work environment.

The illegal use, sale or possession of narcotics, drugs or controlled substances while on the job or on Town property is an offense that warrants disciplinary action, up to and including termination from employment. Any illegal substances will be turned over to the appropriate law enforcement agency. Employees who are involved with off-the-job, illegal drug activity may be considered in violation of this policy.

Employees who are under the influence of alcohol and/or drugs, either on the job or when reporting to work, or who possess or consume alcohol or drugs during work hours, have the potential for interfering with their own, as well as their co-workers, safe and efficient job performance. Employees engaged in such activity will be subject to disciplinary action up to and including termination.

Employees must follow the directions of their health care provider concerning prescription medications and must immediately notify their supervisor of their use of prescription drugs that could affect the performance of their job. Employees engaged in safety sensitive functions that do not report such use prior to commencing work would be considered to have violated the policy. The Town must be notified of any prescription drug or over the counter drug use at the time of any testing or screening for controlled substances.



The Town shall strictly adhere to the U.S. Department of Transportation regulations under the 1991 Omnibus Transportation Employee Testing Act for those employees subject to the same.

**1. Drug-Free Workplace Policy Dissemination:**

- a) The Town will give a one-time notice to all employees that it is a condition of employment to refrain from using, possessing or otherwise dealing in illegal drugs on or off the job and that a drug testing program is being implemented.
- b) A notice of drug testing will be included with all vacancy announcements for those positions where drug testing is required as part of the employment process.
- c) A notice of the Town's drug testing policy will be posted in appropriate and conspicuous locations on the Town's property and copies of the policy will be made available for inspection during regular business hours by the public in the Town Administrator's office.

**2. Alcohol Use Prohibitions**

- a) The consumption of alcohol on Town premises, in a town vehicle or while on duty is prohibited and will result in disciplinary action, up to and including termination.
- b) Off-duty abuse of alcohol which adversely affects an employee's job performance or adversely affects or threatens other interests of the Town is prohibited and may result in disciplinary action up to and including termination.
- c) The personal possession (whether on the person, or in a desk, locker or Town vehicle) of alcohol on Town premises or on duty will result in disciplinary action up to and including termination.
- d) It is against Town policy to report to work or to perform job duties under the influence of alcohol.
- e) For the purpose of this policy, an employee is presumed to be under the influence of alcohol if a blood test or scientifically acceptable testing procedure shows a forensically acceptable positive proof of alcohol usage.
- f) An employee who is perceived to be under the influence of alcohol will be removed immediately from the workplace and may be evaluated by medical personnel, if reasonably available. The Town may decide to take further action (i.e. removal from service, referral to counseling and/or disciplinary action) based on medical information, position held, employee's work history, job conduct and other relevant factors. The determination of what action is appropriate in each case rests solely with the Town.
- g) Refusal to submit to or efforts to tamper with an alcohol test will result in disciplinary action up to and including termination.

Employees who are arrested while either on- or off-duty for an alcohol-related incident must immediately notify their Department Head or the Town

Administrator of the arrest. Failure to notify an appropriate Town official may result in disciplinary action up to and including termination.

### **3. Drug Use Prohibitions**

- a) The use, sale, purchase, possession, manufacture, distribution or dispensation of illegal drugs at any time, whether on- or off-duty and whether on or off Town property is cause for immediate disciplinary action up to and including termination.
- b) It is against Town policy to report to work or to perform job duties under the influence of drugs, including prescription drugs which induce an unsafe mental or physical state. Employees who violate this policy may be subject to disciplinary action up to and including termination.
- c) For the purpose of this policy, an employee is presumed to be under the influence of drugs if a urine test or other scientifically acceptable testing procedure shows a forensically acceptable positive quantum of proof of drug usage. A confirmed positive test will result in disciplinary action up to and including termination.
- d) Consistent with this Policy, an employee perceived to be under the influence of drugs will be removed immediately from the workplace and may be evaluated by medical personnel, if reasonably available. The Town will take further action (i.e. removal from service, referral to counseling and/or disciplinary action) based on medical information, position held, employee's work history, job conduct and other relevant factors. The determination of what action is appropriate in each case rests solely with the Town.
- e) Refusal to submit to or efforts to tamper with the results of a drug test will result disciplinary action up to and including termination.
- f) Employees who are arrested while off-duty or on-duty for a drug related incident must immediately notify their Department Head or the Town Administrator of the arrest. Failure to notify an appropriate Town official may result in disciplinary action up to and including termination.

**NOTE: The activities listed above are not meant to be inclusive but only as examples of activities that may result in disciplinary action being taken by the Town up to and including termination of employment.**

#### **a. Testing of Applicants**

- i. CDL: Positions requiring a Commercial Drivers' License (CDL) will be tested in accordance with Federal law and the Drug & Alcohol Testing Policy for CDL drivers in the Public Works Department.
- ii. Preemployment: Any job applicant or employee who refuses to submit to drug testing, refuses to sign the consent form, fails to appear for testing, tampers with the test, or fails to pass the pre-employment drug test shall be ineligible for hire.Reasonable Suspicion Testing:

(2) Employees must submit to a drug test if the Town reasonably suspects that an employee's ability to perform work safely or effectively may be impaired.

(1) Reasonable suspicion testing means drug testing based on a belief that an employee is using or has used drugs or alcohol in violation of the Town's policy, on the basis of specific, contemporaneous, observations concerning physical behavior or performance indicators of probable alcohol or drug use drawn from those facts in light of experience. Among other things, such facts and inferences may include but are not limited to:

- ii. Observable phenomena while at work, such as direct observation of drug or alcohol use or the physical symptoms or manifestations of being under the influence of a drug.
- iii. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
- iv. A report of drug use provided by a reliable and credible source.
- v. Gross negligence or carelessness.
- vi. Disregard for safety, life or well-being of any Town employee, customer or the general public.
- vii. Excessive tardiness or absenteeism.

**b. Refusal to Test**

- i. Employees who refuse a drug or alcohol test may forfeit their eligibility for all workers' compensation, medical and indemnity benefits.
- ii. Any employee required to be tested under this Policy who refuses to be tested; who refuses to sign required forms; who refuses to provide the necessary urine specimen or breathe alcohol sample; or who engages in conduct that obstructs the testing process, will be subject to disciplinary action up to and including termination of employment.

**Testing Procedure**

- a) Job applicants and employees required submitting to drug or alcohol testing will be required to sign a Drug Testing Consent Form a copy of that is included in the Addendum of this manual.
- b) Because of the potential adverse consequences of positive test results on employees, the Town will employ an accurate testing program. Urine, breath and, where used, blood samples will be analyzed by a qualified, independent laboratory. The Town shall pay for the cost of the initial and confirmation drug tests which it requires of job applicants and employees.

- c) The Town will utilize a collection site designated by an approved laboratory which has the necessary personnel, materials, equipment, facilities and supervision to provide for the collections, security, chain of custody procedures, temporary storage and shipping or transportation of urine and/or blood specimens to an approved drug testing laboratory.
- d) Security of the collection site, chain of custody procedures, privacy of the individual, collection control, integrity and identity of the specimen and transportation of the specimen to the laboratory will meet state and federal guidelines.

## 5. Test Results

- a) The approved laboratory will report test results (both positive and negative) to the Town Administrator within seven (7) working days after receipt of specimen by the laboratory.
- b) The laboratory will transmit results in a manner designed to ensure confidentiality of the information. The laboratory and the Town will ensure security of the data transmission and restrict access to any data transmission, storage and retrieval system.
- c) The Town Administrator will verify that positive and negative results were properly analyzed and handled in accordance with the U.S. Department of Transportation or the U.S. Health and Human Services rules.
- d) The Town Administrator will contact the employee or job applicant of a confirmed positive test result and inquire as to whether prescriptive or over-the-counter medications could have caused the positive test result. The Town Administrator will follow applicable federal or state rules and regulations for providing an applicant or an employee the opportunity to present relevant information regarding the test results.
- e) Within five (5) working days after receipt of a positive confirmed test result, the Town will inform the employee or job applicant in writing of such positive test results, the consequences of such results, and the options available to the employee or job applicant, including the opportunity to contact the Town Administrator and the right to file an administrative or legal challenge.
- f) The Town will provide to the employee or the job applicant a copy of the test results upon request.
- g) Within five (5) days after receiving notice of a positive, confirmed test result, the employee or job applicant may submit information to the Town Administrator explaining or contesting the test results, or to the Town explaining why the test result does not constitute a violation of this policy.

The job applicant will be notified in writing if the explanation or challenge is unsatisfactory to the Town. A written notice will be given to the employee or job applicant within fifteen (15) days of receipt of the explanation or challenge and will include an explanation of why the employee's or job applicant's explanation is unsatisfactory along with the report of positive results.

If the job applicant does not submit to the Town Administrator information explaining or contesting the test results within five (5) days after receipt of notice of a positive test result, then the positive test result will become final for the purposes of any employment or disciplinary action taken by the Town.

The Town's Drug Free Workplace Policy has been prepared so as not to conflict with the public policy and further not to discriminate or be abusive. Drug testing is only one of several steps that must be taken to achieve this objective. When incorporated into a comprehensive anti-drug effort, testing can go a long way in combating drug abuse in the workplace.

**THIS POLICY SUPERCEDES ANY INFORMATION PROVIDED TO APPLICANTS AND/OR EMPLOYEES, EITHER WRITTEN OR ORAL. THE TOWN RESERVES THE RIGHT TO CHANGE THE PROVISIONS OF THIS POLICY AND TESTING PROGRAM AT ANY TIME IN THE FUTURE TO REMAIN IN COMPLIANCE WITH ANY APPLICABLE STATE OR FEDERAL LAW OR REGULATION.**

#### **O. Requirements in the Event of Emergencies or Disasters**

Each employee of the Town of Newbury is responsible to the citizens of the Town of Newbury in the preparation, protection, and maintenance of facilities and services of the Town before and after a disaster such as a hurricane, tornado, earthquake, flood, etc., and before restoration of normal service levels following a disaster. Efficient and loyal performance on the part of each employee is deemed critical and therefore is required under such circumstances. The prompt return to duty after any type of disaster is the responsibility of all employees of the Town of Newbury.

The Town Administrator or its designee shall initiate the phases of the Town's Emergency Disaster Preparedness Plan upon notice of onset of an emergency occurrence. Employees shall be designated as Essential, Non-Essential, or Emergency Personnel by the Town in accordance with the Town's Emergency Disaster Preparedness Plan. All employees shall continue to work in whatever capacity assigned by their supervisor until such time as they are released to seek shelter, as determined by the v or designated representative. Essential personnel shall be the last to be released prior to the event and shall be released on a case-by-case basis. Emergency personnel shall remain at their designated posts until released by their supervisors in accordance with directions of the Town Administrator or designee.

As soon as the immediate threat or crisis to the Town has passed, all employees must contact their respective departments to receive instructions. Employees shall return to duty on or before the time given by their respective department representative in accordance with the guidelines of the Town's Emergency Preparedness Plan and specific directions of the Town Administrator designee. Failure on the part of any employee to act in accordance with the guidelines of the Town's Disaster Preparedness Plan or the specific directions of the Town Administrator Board or designee and/or to contact their department or return to duty as instructed may result in termination.

#### **P. Smoking in the Workplace**

Smoking is prohibited in all public buildings in the Town of Newbury.

#### **Q. Vehicle Use**

Vehicles owned by the Town of Newbury are issued to personnel employed in positions designated by the Town for the benefit and convenience of the Town in order to provide timely and appropriate service to its citizens. The vehicle is assigned, therefore, to the position and not to the employee.

An employee shall not use Town property, equipment or vehicles except in the performance of official duties, nor permit its use by an unauthorized person, including family members, either on- or off-duty except as otherwise approved by the Town Administrator or Department Head or as specified in a collective bargaining or employment agreement.

Town vehicles shall be assigned to departments, individual position, or to a general car pool on the basis of work responsibility as determined by the Town Administrator.

Normally, Town-owned vehicles shall not be driven outside the limits of the State of Massachusetts without the permission of a Department Head who shall inform the Town Administrator of any instances in which a vehicle is to be driven out of state.

All employees must adhere to current State and Federal laws as it relates to the use of electronic devices, cell phones and any other distractions which could impact proper vehicle usage.

In the event of an accident, all employees are required to complete an accident report, which report is to be submitted to and discussed with his/her supervisor.

There shall be no smoking in Town owned vehicles.

## **R. Vehicles, Equipment, and Supplies**

Employees are responsible for items such as equipment, vehicles, supplies, credit cards, and keys etc., issued to them by the Town of Newbury and which are in their possession or control. Employees must return all property belonging to the Town of Newbury on or before their last day of work. The Town may take any and all action deemed necessary to recover town property and may withhold from an employee's final paycheck the cost of items that are not returned to the Town.

## **S. No Strike**

Since municipal employees provide a service to the public whose interruption in many instances may be detrimental to public safety, no municipal employees shall engage in any work stoppage, slowdown, or strike. Any employee engaging in such work stoppage, slowdown, or strike shall be subject to immediate termination without any rights to any of the benefits provided by the Town.

## **T. Nursing Mothers**

Employers are required to provide "reasonable break time for an employee to express breast milk for her nursing child for 1 year after the child's birth each time such employee has need to express the milk." Employers are also required to provide "a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk." The frequency of breaks needed to express milk as well as the

duration of each break will likely vary. A bathroom, even if private, is not a permissible location under the Act. The location provided must be functional as a space for expressing breastmilk. If the space is not dedicated to the nursing mother's use, it must be available when needed in order to meet the statutory requirement. A space temporarily created or converted into a space for expressing milk or made available when needed by the nursing mother is sufficient provided that the space is shielded from view, and free from any intrusion from co-workers and the public.

*Employers are not required under the FLSA to compensate nursing mothers for breaks taken for the purpose of expressing milk. However, where employers already provide compensated breaks, an employee who uses that break time to express milk must be compensated in the same way that other employees are compensated for break time. In addition, the FLSA's general requirement that the employee must be completely relieved from duty or else the time must be compensated as work time applies.*

## **U. Nepotism Policy**

### **1. Purpose:**

The Town's employment policy ensures that municipal employees' private relationships do not conflict with their public obligation to act objectively and with integrity. The Town's objective is to prevent a municipal employee from becoming involved in a situation which could result, or give the appearance, of a conflict. The Town seeks to provide equal employment opportunity to all applicants for employment.

### **2. Guidelines:**

- **Municipal Employee**

An individual is considered a "municipal employee" if he/she holds any office, position, employment or membership in any municipal agency, board or committee, regardless of whether he/she is elected or appointment, full or part-time, paid or unpaid. People who work as consultants for the Town are generally covered by this policy.

- **Family Member**

For the purpose of Nepotism, a municipal employee's immediate family member is considered the following: the employee and their spouse and their parents, children, brothers or sisters.

### **3. Policy:**

A person who is a relative or family member of a Town employee, board or committee member will not be appointed, employed, promoted or advanced in or to a position in the Town if such appointment, employment, promotion or advancement has been advocated by a Town official serving in or exercising jurisdiction or control of the Town. No person will be hired, transferred or promoted into a department where a family member works unless the appropriate Conflict of Interest Disclosures are on file with the Town Clerk (MGL, Chapter 268A)

If two employees in the same department become family members, one of the employees must

vacate their position within ninety (90) days of becoming family members. If the two employees cannot reach an agreement as to who shall vacate their position, then the employee with the least seniority in their position shall vacate the position.

This policy, consistent with Section 19, the Nepotism Section, of the Conflict of Interest Law, Massachusetts General Laws, Chapter 268A, prohibits municipal employees from taking any official action which will affect the financial interests of a family member. It also prohibits a municipal employee from participating in any way in the hiring, promotion, supervision, performance review, or salary recommendation of a family member. Thus, a municipal employee may not interview or create a test for applicants for a job for which a family member has applied, participate in the reappointment, reclassification, demotion or firing of a family member, or approve an automatic increase in salary such as a step increase.

#### 4. **Exemption:**

An exemption exists for appointed municipal employees who are faced with a potential nepotism conflict. Employees in this position must notify their appointing authority, in writing, about the potential conflict. The appointing official(s) may then allow the person to participate or request another individual handle the matter. In making this decision, the appointing official(s) must determine whether the employee's interest is not so substantial as to be deemed likely to affect the integrity of the services the Town may require from the employee. Any determination to allow a municipal employee be involved with a matter involving a family member must be in writing and a copy made available for public inspection at the Town Clerk's office.

This exemption is not available for elected officials. Thus, they must always abstain from participating in any matter that involves a family member. Applicability: This policy shall apply prospectively only. Thus, no municipal employee shall be removed from a position he held prior to the effective date of this policy.

## **CHAPTER XII DISCIPLINE**



The disciplinary process in the Town of Newbury consists of five steps: Verbal Warning, Written Warning, Suspension from Employment, Suspension (Pending Investigation of Misconduct) and Termination.

**A. Verbal Warning:**

The purpose of a verbal warning is to allow the supervisor to bring to the employee's attention the need to improve their performance, work habits, behavior or attitude to serve as a warning against further repetition of the unacceptable conduct. The supervisor should utilize the occasion to identify and explain in detail the area needing improvement and inform the employee as to how such improvement can be achieved. Documentation of verbal warnings will be made a part of an employee's personnel file.

**B. Written Warning:**

In situations where a verbal warning has not resulted in an employee's improved performance, or when an employee commits a more serious offense, a written warning will be issued to the employee. This shall include a complete description of the incident(s) or problem, and refer to specific dates, times, locations, personnel involved if applicable and rules or regulations violated. This warning should also refer to previous verbal warnings if applicable.

The employee will be notified that further actions of a similar or more serious nature may result in more severe corrective action up to and including termination from employment with the Town.

**C. Suspension from Employment:**

With the approval of the Town Administrator, a Department Head or Board/Committee of the Town may, for disciplinary purposes, suspend without pay an employee in his/her department for a length of time he/she considers appropriate. An employee who is suspended shall be given notice of the reasons for the action.

In the event that problems or offenses continue to occur, and the employee has previously received verbal or written reprimands, or if the nature of the problem is more serious in nature as determined by the Town, an employee may be suspended for a specific period of time.

Such suspension shall be without pay and if more than one (1) day, shall be issued on a consecutive working day basis unless otherwise designated by the Town Administrator. A suspended employee may not be permitted to work on his/her normal day(s) off, nor take paid leave time, nor make up the time by working overtime in lieu of a payroll deduction for the period of the suspension.

#### **D. Suspension (Pending Investigation of Misconduct):**

##### Conduct on Duty

An employee may be suspended when his/her inappropriate conduct is so serious that immediate removal from the workplace is necessary. The employee shall be required to leave Town property pending the completion of an investigation. The Town Administrator may elect to suspend the employee with or without pay. A suspended employee may not be permitted to work on his/her normal day(s) off, nor take paid leave, nor make up the time by working overtime in lieu of a payroll deduction for the period of the suspension. **When an investigation has been completed, the Town will decide what further disciplinary action, if any will be taken up to and including termination.** Some examples of conduct warranting such action would be theft, insubordination, threat of violent action, destruction of Town property or reporting to work under the influence of alcohol or drugs, or violations of the chain of command.

NOTE: The list above of misconduct examples is not meant to be all encompassing or all inclusive.

##### **Illegal Conduct On or Off Duty:**

Employees who are arrested and/or charged with a criminal offense(s) will be placed immediately on suspension without pay until the final resolution of their case is determined by the court or until the Town completes its internal investigation.

***Depending upon the results of the Town's internal investigation, or any adjudication by the court, the employee may be disciplined further by the Town up to and including termination.***

#### **E. Termination**

Terminations are discharges or separations made for delinquency, misconduct, inefficiency, or inability to perform the work of the position.

In those situations where the progressive disciplinary actions have not resulted in modification or improvement in the identified behavior or action, or where the employee commits a serious infraction, the Town of Newbury may determine, at its sole discretion, that an employee's employment with the Town should be terminated.

#### **F. Loss of Job Qualifications**

Any employee who is unable to perform his/her job adequately because of loss of a required license or other requirement relative to the position will be terminated. The employee may apply for other positions with the Town.

#### **G. Unauthorized Leaves of Absence**

An employee, who fails to report to work without authorized leave may be subject to disciplinary action up to and including termination of employment with the Town and will be considered to have abandoned their position.

## **H. Guidelines for Disciplinary Action**

Instances arise when an employee must be reprimanded, suspended or discharged. The Department Head will submit a “Disciplinary Action Form” outlining the circumstances involved and the recommended disciplinary action. The Department Head must provide the Disciplinary Action Form to the employee for the employee’s signature. The employee’s signature acknowledges that the employee has seen the report and does not indicate agreement with the contents of the report or the action being recommended to be taken, nor does it prevent the employee from appealing the action taken by the Town.

The following, without limitation, are examples of cause for disciplinary action:

1. Incompetence or inefficiency in performing assigned duties
2. Inability to perform one or more critical elements of the position
3. Refusal to perform a reasonable amount of work or violation of any reasonable official order or failure to carry out any lawful and reasonable directions made by a supervisor
4. Habitual tardiness or absence from duty
5. Falsification of time sheets
6. Use or possession of illegal narcotics or alcohol while on duty
7. Misuse or unauthorized use of Town property
8. Fraud in securing employment
9. Disclosure of confidential information
10. Abuse of sick leave or absence without leave
11. Conviction of a felony
12. Violation of safety rules, practices and policies
13. Engaging in sexual harassment
14. Any situation, or instance of a serious nature, where disciplinary action is warranted

The disciplinary action that is appropriate for any particular misconduct is at the Town’s sole discretion. Disciplinary actions are taken in a progressive nature, except, in the sole opinion of the Town, where the seriousness of the offense warrants a deviation from the following progressive disciplinary action system. The Town reserves the right to discipline or terminate an employee-at-will, with or without cause without having to go through progressive disciplinary steps.

The following is a description of possible disciplinary actions that may be taken by the Town:

- a) Verbal Warning
- b) Written Warning
- c) Suspension without Pay
- d) Termination

Any dismissal may be appealed through the grievance procedure.

**I. Just Cause.** All discipline must be supported by just cause.

**J. Reemployment.** Employees who are dismissed for major violations of the rules or criminal action shall not be eligible for re-employment with the Town.

**CHAPTER XIII**  
***GRIEVANCE PROCEDURE***

- A.** The Human Resources Board shall constitute the Personnel Relations Review Board of the Town and as such shall have the powers and duties and shall perform the functions assigned to Personnel Relations Review Boards under the provisions of Section 21B of Chapter 40 of the General Laws. The Human Resources Board in performing its duties as the Personnel Relations Review Board shall be subject to the limitations imposed by said Section 21B and the By-laws of the Town.
- B.** When sitting as the Personnel Relations Review Board, the Human Resources Board shall keep a separate record of its proceedings which shall not be open to public inspection, except as may otherwise be required by State Law.
- C.** The grievance procedure established in this section shall apply to all employees of the Town, except employees represented by an employee organization for the purpose of collective bargaining and with which organization the Town has entered into a collective bargaining agreement or other employment contract containing a specific grievance procedure. The grievance procedure contained in such an agreement shall apply to all employees represented by the employee organization. The purpose of the grievance procedure set forth herein is to produce prompt and equitable solutions to those problems which from time to time may arise and affect the conditions of employment of employees.
- D.** As used in this Section the word "grievance" shall be construed to mean any dispute between an employee and his/her supervisor or supervisors arising out of an exercise of administrative discretion by such supervisor or supervisors.
- E.** Grievance as defined herein shall be processed in accordance with the following procedures:

  - 1. Level One. The aggrieved employee shall first present his/her grievance in writing to his/her immediate supervisor. He/she shall give a summary of the facts involved and the relief desired. The immediate supervisor shall advise the aggrieved employee in writing of his/her decision with respect to the grievance within five (5) working days after the grievance is presented.
  - 2. Level Two. If at the end of the five (5) working days next following the presentation at Level One the grievance shall not have been disposed of to the employee's satisfaction, the aggrieved employee may within five (5) working days thereafter submit his/her grievance in writing to the Department Head. The written grievance shall give a summary of the facts involved and the relief desired. Within ten (10) working days after receipt of the written grievance, the Department Head shall meet with the aggrieved employee and his/her representative, if he/she elects to have one, in an effort to settle the grievance. Within ten (10) working days after the conclusion of said meeting, the Department Head shall advise the aggrieved of his/her or its decision in writing.

3. Level Three. If at the end of the twenty (20) working days next, following the presentation of the grievance at Level Two, the grievance shall not have been disposed of to the employee's satisfaction, the aggrieved employee may within five (5) working days thereafter submit his grievance to the Human Resources Board acting as the Personnel Relations Review Board. Within ten (10) working days after receipt of the written grievance, the Human Resources Board shall meet with the aggrieved employee and his/her representative, if he/she elects to have one, in an effort to settle the grievance. The Human Resources Board shall within ten (10) working days after the conclusion of said meeting advise the employee in writing of its decision. The decision of the Human Resources Board with respect to said grievance shall be final.
- F.** If at the end of twenty (20) working days next following the occurrence of any grievance or the date of first knowledge of its occurrence by an employee affected by it, the grievance shall not have been presented at Level Two of the procedures set forth above, the grievance shall be deemed to have been waived if the action required to present it at the next level in the procedure shall not have been taken within the time specified in the procedure.
- G.** The time limits herein above specified for the bringing and processing of a grievance may be extended by mutual agreement of the parties

### **Terminating a Grievance**

An employee may terminate his/her grievance, in writing, at any time. If an employee resigns, dies, or is separated by an action other than removal, before a decision is reached on a grievance being processed and no compensation issue is involved, the action may be stopped and the case closed without a decision.

## **CHAPTER XIV**

### ***EMPLOYEE ASSISTANCE PROGRAM***

#### **Employee Assistance Program**

The Employee Assistance Program is a CONFIDENTIAL counseling and referral service providing professional help for Work/Life problems, large and small. All employees and members of their household are entitled to call for services 24 hours a day. Caring staff consists of licensed professional counselors with a wide range of experience. Call their national, toll-free number: 800-451-1834. More detailed information is also available in the Town Administrator's office or online:

MIIA Employee Assistance Program:

[http://www.allonehealth.com/MIIAEAP/Assets/Pdfs/MoreInformation/Employers/Municipal\\_Flyer.pdf](http://www.allonehealth.com/MIIAEAP/Assets/Pdfs/MoreInformation/Employers/Municipal_Flyer.pdf)

MIIA Well-Aware Program (a wide range of activities designed to promote wellbeing):

<http://www.emiia.org/well-aware/services-and-programs>

## ***CHAPTER XV***

### ***HUMAN RESOURCES BOARD***

#### **A. Purpose**

Mission Statement: It is the mission of The Town of Newbury's Human Resources Board to assist the Town Administration, Town Departments and the Select Board in their efforts to recruit, develop, motivate and retain a diverse workforce capable of providing the highest quality of service to the Town.

The Human Resources Board supports the Town Administration and Department Heads in their efforts to keep abreast of the ever-changing landscape of regulatory compliance, employee benefits, compensation, health, safety, wellness and risk management. It provides a channel for individual employees to raise any issues (e.g. grievance, ethics, discrimination, workplace safety, etc.) that could undermine the intent of the Board's mission.

The Town has voted to enact Chapter 22, "Personnel Bylaw" and has established a Human Resources Board, appointed by the Select Board, to administer and study issues of compensation of all Town employees under the jurisdiction of the Town Administrator and/or Select Board and to prepare a wage and classification plan and personnel policy plan, classifying all such employees into groups and classes doing substantially similar work or having substantially equal responsibilities. Such a plan to provide minimum and maximum salaries to be paid to such employees in positions so classified and for the attainment of such maximum salaries by periodical step rate increases, such salaries to be appropriately related, if possible, to salaries paid commercial and business establishments and by comparable municipalities as well as reliable cost-of-living index. To the extent that this Chapter conflicts with any collective bargaining agreement or any individual employment contract, said agreement or contract shall control.

#### **B. Employment of consultants; reports.**

The Human Resources Board is authorized to employ professional consultants in connection with the foregoing if deemed desirable by the Board and the Town Administrator, provided that said professional consultant reports its findings related to the complete wage and classification plan and personnel policy plan to the next special or annual Town Meeting.

#### **C. Composition; terms.**

The Human Resources Board to consist of six (6) members, all appointed for three (3) year terms.

#### **D. Compensation.** No member of the Human Resources Board shall receive compensation.

#### **E. Vacancies; selection of members.**

**Vacancies will be appointed by the Selectmen. At all times one of the six members shall be designated as the "Employee Representative".**



## ACKNOWLEDGEMENT

The Town of Newbury owes much of its success to the quality and good work of its employees and hopes that the working environment of each employee will be stimulating, congenial and rewarding. The purpose of the Personnel Policy Manual is to provide the Town of Newbury employees with the Town's general employment guidelines and employee benefits which help make such a work environment possible.

The Personnel Policy Manual is a "living document," and the information contained within it can be changed as circumstances demand or as policies change. As such, The Town of Newbury can and will terminate and/or change, in whole or in part, any of the information contained in this Policy with or without notice at any time during or after active employment.

**Unless otherwise stated or required by law, employment with the Town of Newbury is "at-will." At-will employment means that the employee or The Town of Newbury may terminate an employee's employment and compensation with, or without notice, at any time and for any or no reason or cause. Unless otherwise stated or required by law, employment with the Town of Newbury is not bound to follow any policy, procedure, or process in connection with employee discipline, employment termination, or otherwise.**

Neither this Personnel Policy Manual, the Town of Newbury practices, nor other oral or written policies or statements of the Town of Newbury or its agents shall create an employment contract, guarantee a definite term of employment, or otherwise modify in any way the agreement and understanding that employment with the Town of Newbury is at-will. No representative of the Town of Newbury, except the Town of Newbury's Select Board, has any authority to enter into any agreement contrary to the foregoing. This Policy is not intended to take the place of more detailed benefit plan documents, and in the event of conflict with those plan documents, the latter shall be deemed controlling.

I acknowledge receipt of this Policy and acknowledge that I have read and understand the foregoing information.

Print - Employee Name: \_\_\_\_\_

Signature of Employee: \_\_\_\_\_

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



## Town of Newbury – Personnel Action Form (Exhibit A)

EMPLOYEE PROFILE					
<b>EMPLOYEE NAME:</b>					
<b>NEW HIRE INFORMATION</b>			<b>DATE OF HIRE:</b>		
Street Address:					
City, State, Zip:					
Job Title:		Home Telephone w/Area Code:			
Department:		Cell Phone Number w/Area Code:			
Manager's Name:					
Benefits Eligibility: <i>(From Date of Hire)</i>	Not Eligible Eligible  Benefit Effective Date	<b>Exempt/Non-Exempt:</b>  <b>Status:</b> Full/Part Time/Permanent PT:  Seasonal/Temporary: Start Date: End Date: <b>Scheduled Weekly Hours:</b>  <b>Pay: Hourly</b>			
<b>EMPLOYMENT CHANGES</b>			<b>EFFECTIVE DATE OF CHANGE:</b> _____		
Separation:	Reason:	___ Voluntary Resignation ___ Discharge ___ Position Elimination ___ Retirement ___ Other: _____		Date Last Worked:	
				Eligible for Rehire:	
				X Yes <input type="checkbox"/> No	
Rehire: <input type="checkbox"/>	Job Title:			Department:	
<b>CHANGE</b>	<b>CURRENT</b>		<b>NEW</b>		
Transfer: <input type="checkbox"/>	Title/Dept:		Title/Dept:		
Promotion: <input type="checkbox"/>	Title/Dept:		Title/Dept:		
Demotion: <input type="checkbox"/>	Title/Dept:		Title/Dept:		
Job Title: <input type="checkbox"/>	Title:		Title:		
Scheduled Hours:	Weekly Hours:		Weekly Hours:		
Department: <input type="checkbox"/>	Department:		Department:		
Salary: <input type="checkbox"/>	Hourly Salary:		Annual Salary:		
Status: <input type="checkbox"/>	___ Full Time: ___ Part Time:		___ Full Time: ___ Part Time:		
Job Class: <input type="checkbox"/>	Nonexempt: Exempt:		___ Non-Exempt: ___ Exempt:		
<b>REQUIRED SIGNATURES</b>					
<b>HIRING MANAGER:</b> (PLEASE PRINT)			<b>DATE SUBMITTED:</b>		
<b>APPROVALS REQUIRED:</b>	Town Administrator _____ Human Resources Board Chair _____		Date Signed:	____/____/____	
			Date Signed:	____/____/____	

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