

# **TOWN OF BUCKLAND PERSONNEL POLICY**

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## **ARTICLE I - PREAMBLE**

### **SECTION A – APPLICABILITY**

This article applies to all town officials, employees, and committee members whether elected or appointed. The purpose of these policies is to establish a fair and equitable system of personnel administration. These provisions of this policy are intended for guidance and do not create an employment contract. All employees of the Town are employed at will unless otherwise subject to a separate contract.

### **SECTION B - EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION**

The Town recognizes the right of individuals to work and advance on the basis of merit, ability, and potential without regard to race, gender, color, disability, religion, national origin, sexual orientation, or age. Non-discrimination and equal opportunity are the policy of the Town in all of its hiring programs and activities.

Toward this end, the Town commits itself to take affirmative measures to ensure equal opportunity in the recruitment and hiring, rate of compensation, and all terms and conditions of employment. The Town is committed to fostering and encouraging a workplace comprised of individuals of diverse backgrounds, races, genders, abilities, religious beliefs, sexual orientation, and ages.

All Town employees are encouraged to take diligent, affirmative steps to ensure equal opportunity and respect for diversity. The policy of the Town is to recruit and hire without regard to race, gender, color, disability, religion, national origin, sexual orientation, or age.

### **SECTION C - CONFLICT OF INTEREST POLICY**

All elected and appointed officials, committee members, and employees shall avoid any action which might create the impression of using public office or employment for private gain, of giving preferential treatment to any person, or of showing partiality in conducting town business. They are expected to conduct themselves in a manner that in no way discredits the town, public officials or fellow employees or is in violation of M.G.L. Chapter 268A Conduct of Public Officials and Employees. Town officials shall abstain from participation in the consideration of any contract or grant award to any agency or organization in which the individual has a financial interest or with which the individual is associated.

## **ARTICLE II - RESPONSIBILITIES**

### **SECTION A – SELECTBOARD**

The Selectboard is responsible for establishing the Personnel Policy of the Town and shall adopt polices and issue regulations as necessary at its sole discretion. The final interpretation of the provisions of the Personnel Policy is the exclusive responsibility of the Selectboard. The Selectboard may periodically review this statement and revise polices and procedures at its sole

discretion. The Selectboard is the appointing (hiring) authority for all employees with the following exceptions:

- The Library Trustees shall appoint Library Personnel
- The Recreation Committee shall appoint Recreation Personnel
- The Board of Assessors shall appoint the Assessors' Assistant

## **SECTION B – PERSONNEL COMMITTEE**

### **1. Personnel Committee Membership:**

The Personnel Committee shall consist of three members one of whom shall be a member of the Finance Committee. The Finance committee shall initially and on an ongoing basis appoint one of its members to a one year term. Subsequently, the Selectboard and Moderator shall appoint members for two year terms. All terms will begin on July 1 and end on June 30. All members of the Personnel Committee shall be residents of the town and shall serve without compensation. No elected or appointed official or committee member except one member of the Finance Committee shall be eligible to serve on the Personnel Committee. No town employee shall be eligible to serve on the Personnel Committee. Any vacancy in the membership of the Personnel Committee shall be filled by the appointing authority for that position for the remainder of the unexpired term.

### **2. Personnel Committee Responsibilities:**

The Personnel Committee shall be responsible for overseeing the maintenance of job descriptions and the performance evaluation forms. The Personnel Committee may prepare appropriate amendments to this policy or by-laws for consideration by the Selectboard and/or Town Meeting.

## **SECTION C – TOWN EMPLOYEES**

All town employees are responsible for familiarizing themselves with the personnel policies of the Town and adhering to the Town's policies as stated, and any additional policies as passed or adopted by the Selectboard.

## **ARTICLE III - PERSONNEL POLICIES**

### **SECTION A - APPLICABILITY**

The provisions of this article will apply to all full-time, part-time, and temporary employees of the town as defined in Section B. No position filled by popular election will be subject to the provisions of this article.

### **SECTION B – CATEGORIES OF EMPLOYEES**

The categories of employees covered by this article are:

1. **FULL TIME EMPLOYEE** is a regular employee who is scheduled to work 40 hours per

week in a position.

2. PART TIME EMPLOYEE is a regular employee who is scheduled to work less than 40 hours per week in a position.
3. TEMPORARY EMPLOYEE is an employee in a full or part time position which does not require the services of an incumbent on a year-round basis. Seasonal employees and employees hired for short term projects are considered temporary employees.
4. REGULAR EMPLOYEE is an employee who has completed his/her probationary period.

For the determination of eligibility for overtime compensation, the following shall apply:

5. EXEMPT/NON-EXEMPT EMPLOYEE: Pursuant to the Fair Labor Standards Act (FLSA), 29 USC, Section 201-216 (as amended), employees holding certain positions are deemed to be exempt from the overtime requirements of the FLSA (“exempt employees”), while employees holding other types of positions are entitled to overtime under the FLSA. The determination of whether a particular position is exempt from the overtime requirements of the FLSA is often determined on a case-by-case basis, but the following general criteria apply.

Exempt Employees:

An exempt employee is a salaried employee who earns more than \$455/week and is employed in an executive, administrative or professional capacity and the position the employee holds meets one of the following classifications:

Executive – Primary duty is to manage a department, direct the work of other employees and participate in the hiring, firing, promotion or other decisions affecting the status of an employee.

Administrative – Primary duty is office or non-manual work directly related to management policies of directly assisting an executive that includes the exercise of discretion and independent judgment with respect to matters of significance.

Professional – Primary duty is office or non-manual work that requires advance knowledge acquired by specialized study; work is intellectual and the result is not standardized, or, requires invention, imagination, originality or talent in a recognized field of artistic or creative endeavor.

Non-exempt Employees:

A non-exempt employee may include a safety employee who is a “first responder,” or one whose primary duty is not executive, administrative or professional in nature, and who, whether paid a salary or hourly wage, is entitled to overtime pay whenever his/her actual hours exceed 40 in the standard work week. Once the standard work week is established, it may not be changed in order to avoid payment of overtime.

SECTION C – EMPLOYMENT OF MINORS

The Town will comply with all federal and Commonwealth of Massachusetts laws in the area of child labor particularly with regard to working hours and restrictions from certain work activities. Minors younger than 14 years of age will not be employed by the Town of Buckland. Minors 14 years of age and older must have on file an "Employment Permit" from their school or the Superintendent of Schools if a regional school system as long as they remain a student or graduate. Such minors may not work more than nine (9) hours per day nor more than forty-eight (48) hours per week. Such minors may not work between 10:00 p.m. and 6:00 a.m. Minors sixteen years of age and older may perform most types of work except work involving hazardous occupations as established by the State and Federal Secretaries of Labor.

Minors 14 years through 16 years old must have on file an "Employment Permit" from their school or the Superintendent of Schools if a regional school system. Such minors may not be employed during school hours (unless they are part of a qualifying "work experience program"). Such minors may not be employed between 7:00 p.m. and 7:00 a.m. (except from July 1 through Labor Day they may work until 9:00 p.m.). Such minors will not be employed:

- a. More than three (3) hours per day on school days;
- b. More than eighteen (18) hours per week in school weeks;
- c. More than eight (8) hours per day during a period of not more than nine (9) consecutive hours on non-school days,
- d. More than forty (40) hours per week; or,
- e. More than six (6) days in a week.

The Town must keep posted in a conspicuous place in the room where such minors are employed or report to work a printed notice or schedule stating the number of hours such minors are required or permitted to work on each day of the week, the total number of scheduled hours for the week, the hours commencing and stopping work, and the hours when the time allowed for meals begins and ends for every day of the week.

#### SECTION D - EMPLOYEE RECRUITMENT AND SELECTION

The Screening Committee, Selectboard, Town Administrator, Personnel Committee, and appropriate supervisors shall be responsible for the recruitment and selection of personnel.

The job application Screening Committee (the "Committee") will consist of one member of the Selectboard, one member of the Finance Committee, and one member of the Personnel Committee. No member of the Finance Committee may be appointed to represent that board on the Screening Committee if he/she is also serving on the Personnel Committee. Members will be appointed by their respective boards to serve for one year beginning July 1, and ending June 30. The department head or board chairman responsible for the position being filled will also serve as a temporary voting member of the committee until the position is filled.

The Committee shall use current job descriptions and salary information, to review applications/resumes for applicants to interview. The Committee shall consult for advice and information from the open position's supervisor or department head or related positions.

The Committee shall:

1. Review applications/resumes.
2. Select candidates for interviews.
3. Interview candidates following appropriate State and Federal regulations.
4. Check at least 2 references on final candidates.
5. Write a recommendation to the Selectboard for employment of the top 2 to 3 candidates.
6. Send applicants who are not selected letters of notification.

Advertising for an open position should be adequate to ensure that qualified applicants know of the position. Advertising for the position should appear in a local newspaper at least one week in advance of the closing date for applications. Advertisement shall be posted internally for at least one week as well.

Candidates for specific positions may be required to complete oral, written, or practical tests, or any combination thereof. These tests shall be relevant to the job description and applied consistently. The appointing authority may require a pre-placement physical examination for the selected candidate prior to appointment depending on the job requirements. Specific positions may require Criminal Offender Record Information (CORI) checks. Candidates may request a copy of the Town's CORI Policy if they are asked to comply with this requirement.

All appointments shall be made in writing by the Selectboard and shall include the salary, starting date and any other appropriate information. A copy of the notice of appointment shall be sent to the Town Administrator for record keeping.

An applicant who accepts an appointment and fails to report for work on the starting date shall be deemed to have declined the appointment and the offer of employment shall be withdrawn.

#### SECTION E - PROBATIONARY PERIOD

There shall be a probationary period for all new town employees. It will be six (6) months for exempt employees and three (3) months for non-exempt employees. During the probationary period, an employee may be dismissed without cause or grievance rights.

At the end of the probationary period the supervisor will, by written evaluation, review the work record of the employee and make one of the following recommendations:

1. Transfer the employee to regular status.
2. Terminate the employee's service.

An employee on probationary status accrues but may not use vacation time, personnel time, or floater holidays, but accrues and may use sick time. Probationary employees are entitled to paid holidays.

Following the successful completion of the probationary period, an employee shall be considered a regular employee.

#### SECTION F - COMPENSATION

1. BASE PAY: Persons appointed to positions shall be paid a fair starting rate for that position. In general no new employee shall be paid more than an existing employee in the same position with comparable experience and abilities. However, the compensation may be at a higher rate based on exceptional qualifications and with the approval of the Selectboard.
2. OVERTIME: Payment for overtime shall be in accordance with the terms of the Fair Labor Standards Act of 1938 as amended. If an assignment requires work in excess of 40 hours per week, such overtime work must be authorized in advance by the department head or supervisor. Non-exempt employees shall be paid one and one-half times their regular hourly rate for hours worked beyond 40 hours in a 7 day period. For purposes of computing overtime pay, floater holidays, vacation, sick, personal or bereavement days taken during the work week shall not be considered as time worked. NOTE: Under the FLSA, 29 USC 207(e), hours of service for purposes of overtime or compensatory time does not include vacation, holiday or sick time, whether paid or unpaid. Rather, overtime is based on hours actually engaged in work for the employer. Leaves without pay are excluded from any such compensation. Executive, administrative and professional employees are exempt from the Fair Labor Standards Act and are not eligible for overtime pay.
3. LONGEVITY: This policy applies to all permanent full-time, and permanent part-time employees, not to include elected officials. There shall be added to the annual compensation of each full time employee the sum of \$250 after the completion of each and every 5 years of continuous employment after to the 10th year of continuous employment. The maximum benefit shall be \$1,000 from the 25<sup>th</sup> year of employment on. For permanent part-time employees, any longevity payments granted under the terms of this policy will be pro-rated on the basis that their part-time service bears to full-time service. Interruption of employment for the purpose of performing military service under orders shall not be deemed a break in continuous employment with the Town for the purpose of determining longevity eligibility, provided that no employment other than military service under orders is entered into during the period of interruption, and that the employee returns to Town service within thirty (30) days after honorable discharge from active military service, or immediately upon release from reserve duty. An employee who elected an unpaid leave of absence of more than ten days per fiscal year shall have his/her longevity date adjusted by the number of calendar days spent on unpaid leave.
4. COMPENSATORY TIME: The Town of Buckland does not award compensatory time in lieu of paid compensation.

## SECTION G – BENEFITS

1. GROUP MEDICAL AND LIFE INSURANCE: All regular employees who work 20 hours or more per week are entitled to the following benefits subsidized by the Town at a set contribution rate as determined by the Selectboard: (a) Health Insurance; and (b) Life Insurance

All regular employees who work twenty (20) hours or more per week are entitled to the following benefits at 100% employee contribution:

- Dental Insurance
- Supplemental Life Insurance
- Disability Insurance
- Health Insurance
- Life Insurance

2. PENSION: All employees who work twenty (20) hours or more per week must participate in the Franklin Regional Retirement System.

3. RETIREE MEDICAL AND LIFE INSURANCE: An employee retiring from the Town of Buckland (the Town) who has been enrolled in the Town’s medical, dental and life insurance program is eligible to continue receiving such benefits from the Town provided that he or she meets certain eligibility criteria described below. The Town will pay, pursuant to the requirements of Massachusetts General Law (MGL) Chapter 32B, 50% of the cost of the retiree health and basic life insurance plans as long as the retiree notifies the Town in writing of his or her decision to enroll in a health insurance benefit plan for retirees at least sixty (60) days prior to retirement from the Town and providing that he or she meets the following eligibility qualifications:

- The individual employee was enrolled in a health insurance program offered by the Town at the time of retirement;
- The individual is eligible for retirement benefits through the Franklin Regional Retirement System; and
- The individual has a minimum of ten (10) years of credible service immediately preceding retirement in a benefited position with the Town of Buckland.

Retiring employees eligible for Medicare shall be required to obtain such coverage and comply with MGL, Chapter 32B, Section 18, as adopted by Buckland Town Meeting vote on June 29, 2006.

4. HOLIDAYS: Employees will be paid for the following holidays. Holidays falling on Saturday will be observed on Friday those falling on Sunday will be observed on Monday.

New Years Day	Labor Day
Martin Luther King Day	Columbus Day
Presidents Day	Veterans Day
Patriots Day	Thanksgiving
Memorial Day	Christmas
Independence Day	2 Floater Holidays (In place of the days

	before or after Thanksgiving and Christmas)
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If a holiday falls on a day in which an employee is not scheduled to work the employee is to take the holiday time within the same pay period or the one subsequent to the holiday at the latest. Holiday time is based on full time employment of forty hours per week. Part time employees will receive holiday time prorated on their regularly scheduled hours per week. (i.e. 20 hours per week = 4 hours holiday time per day)

5. VACATION: Regular employees will accrue vacation time based on length of service as shown below. The vacation time accrued is based on full time employment of forty hours per week. Part time employees will accrue vacation prorated on their regularly scheduled hours per week (i.e. 30 hours per week = 75% accrued). Vacation leave does not accrue during any month in which the employee does not perform services for at least one (1) day during that month. Vacation time shall be determined by the length of continuous service. For purposes of computing vacation time, employees who leave the town service and are later reinstated, shall be considered new employees unless otherwise determined by the Selectboard.

Employed 0 through 5 yrs.	6.67 hrs per month (2 wks)
Employed 6 through 10 yrs.	10 hrs per month (3 wks)
Employed 11 through 20 yrs.	13.34 hrs per month (4 wks)
Employed over 20 yrs.	16.67 hrs per month (5 wks)

Years of service are calculated as full years for full time employees and are prorated for part time employees. Vacation time may not accrue to more than 15 times the monthly amount.

Time may be used any time following the month in which it is accrued. A vacation request form must be submitted to the employee's supervisor, who may in turn submit it to the Town Administrator or the Selectboard for approval. New employees will accrue vacation time but may not use it during the probationary period.

If a designated holiday occurs while an employee is on vacation leave, no charge for the holiday will be made against vacation leave.

6. SICK LEAVE: Regular employees will receive 12 sick days per fiscal year to be accrued at the rate of 1 day per month. The sick time accrued is based on full time employment of forty hours per week. Part time employees will accrue sick prorated on their regularly scheduled hours per week (i.e. 30 hours per week = 75% accrued). Sick leave does not accrue during any month in which the employee does not perform services for at least one (1) day during that month. Sick leave can be accrued to a total of 480 hours or 12 weeks by full time employees and a prorated portion of 480 hours by part time employees. Employees will not be compensated for unused sick leave when they leave their employment with the Town.

7. PERSONAL TIME: Regular employees will receive 24 hours at the beginning of each

fiscal year for personal needs. Part time employees will receive personal time prorated on their regularly scheduled hours per week (i.e. 30 hours per week = 18 hours). Personal time will not carry over from one fiscal year to the next and unused personal time is not compensated for when an employee leaves their employment with the Town.

8. BEREAVEMENT LEAVE: Employees will receive up to three days leave with pay upon the death of spouse or partner, child, parent, stepparent, sister, brother, parent-in-law, sister-in-law, brother-in-law, grandparent, or grandchild. Employees will receive one day leave with pay for other relatives, military honor guard.
9. JURY LEAVE: Employees shall be paid for the first three days of jury duty occurring on their regular work days. For jury duty extending past three regular work days, employees will be paid at their regular rate minus state compensation. The Town agrees to pay the difference when supplied proof of the amount of jury pay received by the employee.
10. RELIGIOUS LEAVE: Employees are entitled to personal religious holidays and may use vacation time or personal time for this purpose.
11. FAMILY AND MEDICAL LEAVE, SMALL NECESSITIES LEAVE AND MATERNITY LEAVE
  - a. Purpose: This policy outlines the basic procedures governing Family and Medical Leaves. Family and Medical Leaves are employee leaves of absence for child care, personal medical care, family medical care and certain other circumstances. This policy also outlines the basic procedures governing brief absences for certain other family purposes, referred to in this policy as Small Necessities Leaves, as well as absences for certain maternity leaves authorized under Massachusetts law. This policy is intended to implement the federal Family and Medical Leave Act (“FMLA”), the Massachusetts Maternity Leave Act (“MMLA”) and the Massachusetts Small Necessities Leave Act (“SNLA”). It is to be interpreted and applied consistent with those laws.
  - b. Family and Medical Leaves: An employee will be eligible to seek a Family and Medical Leave or a Small Necessities Leave if (1) the employee has worked for the Town for at least 12 months, (2) the employee has worked for the Town for at least 1,250 hours during the 12 months before the leave. The Town will compute the eligible 12 month period on a fiscal year calendar from July 1<sup>st</sup> to June 30<sup>th</sup>. In certain circumstances, separate periods of employment are aggregated for purposes of the 12 month requirement. Additionally, any time that the employee would have worked for the Town but for his or her National Guard or Reserve obligations is counted toward the 1,250 hour requirement for Family and Medical Leave.
  - c. Massachusetts Maternity Leaves: Some employees who are not eligible for a Family and Medical Leave may nevertheless be eligible for a leave of absence for childbirth or adoption pursuant to Massachusetts law. Specifically, employees who meet the eligibility criteria specified in the MMLA (i.e., full-time female employees who have

been employed for at least three months) may be eligible for eight week leaves of absence for the purpose of giving birth or adopting a child. Such an eight-week leave of absence is referred to in this policy as a “Massachusetts Maternity Leave.”

d. Types of Family and Medical Leaves: For purposes of this policy, the term “Family and Medical Leave” refers to the leaves of absence under the FMLA. Employees may qualify for any of six types of Family and Medical Leaves. Throughout this policy, the terms “Family and Medical Leave” and “FMLA Leave” refer to any of the following six (6) types of leaves:

(1) Pregnancy Leave: An employee may take a Pregnancy Leave due to incapacity due to pregnancy, prenatal medical care or childbirth.

(2) Birth, Adoption and Child Care Leave: An employee may take a Birth, Adoption and Child Care Leave to care for his or her child after birth, or for placement with the employee of a child for adoption or foster care. The leave must be completed within 12 months of the child’s birth, adoption or foster care placement.

(3) Family Illness Leave: An employee may take a Family Illness Leave to care for a seriously ill or injured spouse, parent or child. The illness or injury must be a “serious health condition” within the meaning of the FMLA, a term which is defined below. If the leave is for care of a child, the child must either be under age 18 or unable to care for himself or herself due to a mental or physical disability.

(4) Employee Illness Leave: An employee may take an Employee Illness Leave because of a serious health condition that makes the employee unable to perform his or her job.

(5) Qualifying Exigency Leave: An employee may take Qualifying Exigency Leave for certain “qualifying exigencies” arising out of the fact that the employee’s spouse, child of any age or parent is on active duty (or has been notified of an impending call to active duty) in support of certain types of military operations, known as “contingency operations.” The family member must be a member of the National Guard or one of the military’s Reserve units or a retired member of the Regular Armed Forces or the Reserves. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, attending post-deployment reintegration briefings and any other circumstance that the Town and the employee agree should be a qualifying exigency and as to which they agree about the timing of the leave for that event.

(6) Military Caregiver Leave: An employee may take Military Caregiver Leave to care for a spouse, child of any age, parent or next of kin who is a current member of the Armed Forces (including a member of the National Guard or the Reserves) and incurs a serious illness or injury in the line of duty or active duty that may

render the service member medically unable to perform his or her duties, if the illness or injury is one for which the service member (1) is undergoing medical treatment, recuperation or therapy, (2) is in outpatient status, or (3) is on the temporary disability retired list. If Military Caregiver Leave also qualifies as Family Illness Leave, the leave will be designated as Military Caregiver Leave.

e. Serious Health Condition: A “serious health condition” is an illness, injury, impairment or physical or mental condition that involves either an overnight stay in a medical care facility or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee’s job or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

f. Small Necessities Leaves: Small Necessities Leaves are absences of an employee for any of the following purposes:

- to participate in school activities directly related to the educational advancement of a child of the employee, such as parent-teacher conferences or interviewing for a new school;
- to accompany a child of the employee or an elderly relative of the employee to routine medical or dental appointments, such as check-ups or vaccinations; or
- to accompany an elderly relative of the employee to appointments for other professional services related to the elderly relative’s care, such as interviewing at nursing or group homes.

For purposes of this policy, an elderly relative of an employee is an individual of at least 60 years of age who is related by blood or marriage to the employee.

g. Notice and Scheduling of Leave and Related Employee Responsibilities:

(1) Required Information: Employees who seek a Family and Medical Leave or a Small Necessities Leave must provide sufficient information for the Town to determine if the leave may qualify for FMLA or SNLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider or circumstances supporting the need for a Qualifying Exigency Leave or a Military Caregiver Leave. Employees must also inform the Town if the requested leave is for a reason for which a Family and Medical Leave was previously taken or certified. Employees may also be required to provide a

certification and periodic recertification supporting the need for leave. Unless a longer period is specified, a medical certification or recertification must be completed and returned to the Town within 15 days of the Town's request. Moreover, employees on leave may be contacted periodically for updates concerning their status and intent to return. Employees are expected to be fully responsive to such requests for updates.

(2) Advance Notice of Foreseeable Leave: Except as otherwise provided below, employees must provide 30 days' advance notice of the need to take a Family and Medical Leave when the need for the leave is foreseeable. When 30 days' notice is not possible, the employee must provide notice as soon as practicable. However, if the leave is a Birth, Adoption and Child Care Leave or a Massachusetts Maternity Leave, the required advance notice period is two weeks.

(3) Form of Notice of Foreseeable Leave: To provide notice, an employee is required to complete the Town's "Request for Leave of Absence" form and submit it to the Human Resources Department, except in unusual circumstances.

(4) Scheduling of Foreseeable Leaves: If an employee plans to take a Family Illness Leave, an Employee Illness Leave or Military Caregiver Leave because of planned medical treatment, the employee must make an effort to schedule the treatment to reduce the disruption to the Town, subject to the health care provider's approval. An employee should generally consult with his or her supervisor to explore alternatives to reduce the disruption to the Town.

(5) Notice of Unforeseeable Leave: When a Family Illness Leave, an Employee Illness Leave, Military Caregiver Leave or Qualifying Exigency Leave is needed due to a reason that was not foreseeable, an employee should give the Human Resources verbal or written notice as soon as he or she reasonably can.

(6) Notice of Small Necessities Leave: When an employee's need for a Small Necessities Leave is foreseeable, the employee should provide at least seven days' written notice. If the employee's need for such an absence is not foreseeable, the employee should provide as much notice as is practicable.

(7) Effect of Insufficient Notice: An employee's failure to give adequate notice may delay, or may result in the denial of, the employee's right to take a Family and Medical Leave or a Small Necessities Leave or may affect the employee's rights to a Massachusetts Maternity Leave.

h. Confirmation of Leave:

(1) Family and Medical Leaves: The Town shall inform employees who request Family and Medical Leave whether they are eligible for a leave that is covered by the FMLA. If they are, the notice shall specify any additional information that the Town requires as well as the employees' rights and responsibilities. If they are not

eligible, the Town shall provide at least one reason of the ineligibility determination. The Town shall determine if leave will be designated as FMLA protected and the amount of leave counted against the employee's leave entitlement. If the Town determines that the leave is not FMLA-protected, the Town shall inform the employee.

(2) Small Necessities Leaves: An employee who requests Small Necessities Leave may be required to provide a certification stating the date of the absence, the duration of the absence, and the purpose of the absence. The Town reserves the right to require any employee to provide reasonable additional information to verify the reason for requesting a leave.

i. Length of Leave and Restoration Rights:

(1) General:

- In general, except for those employees taking Military Caregiver Leave, an employee will be entitled to a maximum of 12 weeks of Family and Medical Leave and 24 hours of Small Necessities Leave during any 12-month period. The 12-month period is a rolling period measured backward from the date an employee uses any leave under this policy. Each time an employee takes any Family and Medical Leave, the remaining leave entitlement will be any balance of the 12 weeks that has not been used during the immediately preceding 12 months.
- In the case of Military Caregiver Leave, an employee is entitled to a maximum of 26 weeks of leave in the 12-month period beginning on the first day that the employee takes this form of leave and ending 12 months later.
- When an employee is eligible for both a Birth, Adoption and Child Care Leave and a Massachusetts Maternity Leave, both leaves will run concurrently. However, the expiration of FMLA rights does not itself deprive an employee of MMLA rights, if the employee continues to be eligible for MMLA leave after the expiration of FMLA Leave.

(2) Nature of the Leave: Unless otherwise approved, a Birth, Adoption and Child Care Leave or a Massachusetts Maternity Leave must be taken at one time and must be taken before the end of the 12-month period beginning on the date of the child's birth or placement. The other Family and Medical Leaves may be taken through either a reduced working schedule or intermittently if such an arrangement is medically necessary (or if the Town approves such an arrangement in its discretion). If an employee is entitled to a Family Illness Leave, an Employee Illness Leave or a Military Caregiver Leave or if the employee is permitted to work on a reduced work schedule or intermittent basis, the Town may transfer the employee temporarily to a position for which he or she is qualified and which has equivalent pay and benefits if the alternative position would better accommodate the recurring leaves than the employee's regular position. Use of intermittent or reduced schedule leave is measured in increments

of one hour. Qualifying Exigency Leave may also be taken on an intermittent basis.

(3) Special Rule Applicable to Spouses who are Both Employed by the Town: If the Town employs both spouses, the combined total Family and Medical Leave to which they will be entitled together will be 12 weeks in any 12-month period if the leave is taken as (1) a Family Illness Leave to care for the employee's parent or (2) Birth, Adoption and Child Care Leave.

(4) Restoration Rights:

- General: At the end of a Family and Medical Leave or a Small Necessities Leave, an employee will generally have the right to return to his or her last position before the leave or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment. An employee returning from a Massachusetts Maternity Leave will generally have the right to return to her last position or a similar position. In returning from any of these leaves, the employee will not lose any benefit rights, such as vacation, to the extent that those benefit rights accrued before the leave period.
- Extension of Leave: In the event that a Family and Medical Leave is extended beyond a level totaling 12 weeks of leave over 12 months (or 26 weeks in the case of Military Caregiver Leave), the leave will become a "personal leave" and the Town will consider the possibility of restoration but will not guarantee restoration. The determinations regarding whether to grant an extension and to grant restoration after an extension will be made in the Town's discretion after considering factors such as the purpose of the leave extension, the employee's length of service, the employee's overall employment record, the employee's position, and the Town's assessment of its needs. For details on the duration of and procedures associated with personal leaves of absence, please see the Personal Leave section of this manual.
- Certification Before Return: Before an employee may return from an Employee Illness Leave that has continued for at least 5 calendar days, the employee's health care provider may be required to certify that the employee is able to resume his or her job. The employee will be required to bear the costs of such a certification.

j. Pay and Benefits:

(1) Pay: Family and Medical Leaves, Small Necessities Leaves and Massachusetts Maternity Leaves are not paid leaves. However, an employee may substitute a paid leave for which the employee is eligible for otherwise unpaid leave. Such a substitution will be counted against the employee's use of leave. The leave will remain subject to all protections that would apply if the leave were taken on an unpaid basis. For example, if an employee takes an Employee Illness Leave, he or

she may be entitled to the Town's short-term disability pay under the Town's policies. Employees who seek paid leave will need to meet the notice and qualification requirements under the paid leave policy. If no other paid leave is available but an employee is eligible for accrued paid leave, such as vacation pay or paid personal days, the employee will be required to use that accrued leave during a leave under this policy until it is exhausted. Employees who are receiving Workers Compensation benefits and also qualify for Family and Medical Leave status will be required to take Family and Medical Leave.

(2) Maintenance of Health Benefits:

- During a Family and Medical Leave, the Town will continue the employee's medical and dental insurance coverage, provided that the employee pays for the regular employee share of such coverage on a timely basis as if he or she had remained actively employed. During any paid leave, the employee share of the premiums will be deducted from the employee's pay. During the unpaid portion of a Family and Medical Leave, the employee will be required to pay the employee's share by delivering the payment so that it is received by the Town no later than the fifth (5) day of each month.
- If the employee fails to return from the leave, the Town may be entitled to recover from the employee the portions of medical and dental insurance premiums that were paid for by the Town with respect to the unpaid portion of the leave. The Town will be entitled to recover these amounts unless the employee's failure to return was due to a serious health condition (within the meaning of the FMLA) or if there are other circumstances beyond the employee's control. If the employee states that he or she is unable to return from the leave because of a serious health condition, the Town may require the employee to provide a medical certification.
- An employee who is eligible only for a Massachusetts Maternity Leave and not a Birth, Adoption and Child Care Leave is not entitled to health benefit continuation during the leave.
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k. Medical Records: Documents relating to medical certifications, re-certifications or medical histories of employees or employees' family members will be maintained separately and treated as confidential medical records, except that in some legally recognized circumstances, the records (or information in them) may be disclosed to supervisors and managers, first aid and safety personnel, or government officials as permitted by law.

l. Violations and Enforcement:

(1) Unlawful Actions by Employers: The FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under the FMLA; or

- Discharge or discriminate against any person for opposing any practice made unlawful by the FMLA or for involvement in any proceeding under or related to the FMLA.

(2) Enforcement: An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer. The FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

m. Authority: The interpretation and administration of this policy shall be the responsibility of the Personnel Officer, and overseen by the Board of Selectmen.

## 12. MILITARY LEAVE:

- a. RESERVE TRAINING: Members of the National Guard or military reserve may request an unpaid leave of up to fifteen (15) days each fiscal year. The leave will not affect the normal accrual of vacation and sick leave credit. Participation in the Town's health care and life insurance will not be affected. A copy of the military orders must be presented to the department head upon request.
- b. ACTIVE DUTY: Regular employees who are called to active duty to serve the Armed Forces of the United States will be granted a leave of absence and paid the difference between their military pay and regular pay. Vacation and sick leave shall not accrue. Should the employee continue with their health and life insurance they must pay 100% of the premium.

Upon satisfactory completion of active service in the Armed Forces of the United States the employee will be restored to his/her former position or to a similar position, provided that business circumstances of the Town allow it and that the employee is still qualified to perform the duties of his/her former position or a similar position.

13. MATERNITY LEAVE. Female Employees with at least six months of service with the Town may receive up to eight weeks of unpaid leave for the purpose of child-bearing and adoption, as provided for in G.L. c.149, §105D. Requests for such leave shall be made to the department head at least two (2) weeks in advance of the expected date of departure and return. Accrued vacation leave must be used first, unless there are extenuating circumstances. The employee may use up to four (4) additional weeks of available sick leave to extend the period of maternity leave. During maternity leave, the employee does not accrue sick or vacation leave and is not eligible for holiday pay.

The employee may request an extension of the leave in accordance with the leave of absence policy. In such case, the employee shall be responsible for 100% of the health and life insurance premiums. Pursuant to M.G.L., c.149, §105D, the employee shall be entitled to return to her former position, or an equivalent position upon the completion of maternity leave.

Requests by Male Employees for paternity leave under this section shall be consistent with the conditions set forth in this section, and allowed by the department as required by law.

14. SMALL NECESSITIES LEAVE. In accordance with M.G.L. c.149, §52D, an employee who is eligible to receive leave under the FMLA is also entitled to a total of 24 hours of leave during a twelve (12) month period, in addition to other leave under this section, to participate in school activities directly related to the education advancement of the employee's child; to accompany the employee's child to routine medical or dental appointments, and to accompany an elderly relative as defined in Section 52D to routine medical or dental appointments or other professional services related to the elder's care. Leave under this provision is in addition to the twelve (12) week leave provision and may be taken on an intermittent or reduced leave schedule.

#### SECTION H - ATTENDANCE ACCOUNTABILITY

1. A bi-weekly time sheet indicating the hours worked and/or time absent must be completed and signed by each employee and supervisor and turned in to the town office by 10:00 a.m. the Monday after the bi-weekly payroll period ends unless the employee is otherwise notified. Failure to turn in a time sheet by the deadline may result in the payment of time worked added to the *next* pay period.
2. Unexcused absences will result in an employee not being paid for that shift/day and may result in disciplinary action (see Section J).
3. Employees must submit a Time Off Request Form before they are out of work for any time longer than two (2) consecutive work days (including Friday through Monday) regardless of whether they are using personal days or holiday time, or any combination thereof. When using personal days or holiday time, employees should give their supervisor 24 hour notice.
4. Vacation time is leave time that is scheduled. All employees must submit a Time Off Request Form requesting pre-approval of vacation time at least 30 days in advance. If that is not practicable then an employee must submit a vacation request prior to their planned absence in as timely a manner as possible. Supervisors will grant vacation requests subject to the best interests of the department and the Town but will not unreasonably withhold approval. Vacation leave is not to be used in lieu of any other type of leave (i.e., sick time) without consent from the Selectboard.
5. Sick Time: All employees shall notify their supervisor of any absence prior to the start of the work day. All employees who are absent for medical reasons for over two consecutive days may be asked to supply medical documentation. If an employee is absent for medical reasons for over 5 days and the absence qualifies, then they may ask, or the Town may choose, to place the employee on FMLA leave (see Section F, #11 above).

6. If an employee is absent for three work days without notification to the supervisor or the town office it will be considered abandonment of their position and the employee may be terminated without further disciplinary action.

## SECTION I - ANNUAL PERFORMANCE EVALUATIONS

Each full or part time employee shall participate in the approved Town performance evaluation process with his/her supervisor at least once each year between April 1 and June 30.

## SECTION J - DISCIPLINARY ACTION

Causes for disciplinary action may include, but are not limited to:

1. Failure or refusal to perform job per job description
2. Habitual tardiness
3. Inaccurate time sheets
4. Use or possession of illegal substances or alcohol while on the job
5. Disclosure of confidential information
6. Abuse of leave
7. Violation of safety rules
8. Harassment of other employee (see section N)
9. Gross and/or willful misconduct
10. Abuse of any town policy

Disciplinary action may include an oral reprimand, written reprimand, suspension and/or discharge. Whenever possible, disciplinary action should be progressive in nature. However, should the nature of the offense(s) warrant such, discipline may start at any stage.

ORAL REPRIMAND: An employee's supervisor, the department head, the Selectboard, or the appointing authority, upon observing an action, may issue an oral warning to the employee. The oral warning shall be presented with maximum regard to avoiding embarrassment to the employee and shall include a statement concerning the purpose of the warning. An oral reprimand shall be noted in the employee's personnel file.

WRITTEN REPRIMAND: If an oral warning fails to correct an action warranting disciplinary action, the employee's supervisor, the department head, the Selectboard, or the appointing authority may issue a written warning. This shall include the reason(s) for the warning. A copy of the written warning signed by the department head and the employee will be placed in the employee's personnel file and carry a specified period in which the behavior shall be improved. The employee may include a written response to the reprimand in their file. A written reprimand may also be issued without an oral reprimand if the seriousness of the action warrants it.

SUSPENSION: At the discretion of the Selectboard or appointing authority, an employee may be suspended without pay. Within forty-eight (48) hours of the effective date of the suspension,

the employee will be provided with a written notice stating the reason(s) for and the length of the suspension. Suspensions may be in lieu of oral or written reprimands and may be effective immediately. An employee may request a hearing in accordance with MGL, Chapter 30, sec 21(1).

## SECTION K - TERMINATION OF EMPLOYMENT

1. BY RESIGNATION: All employees are expected to provide written notice of at least fourteen (14) calendar days in advance of resignation. Employees will continue to render service to the town during the notice period.
2. BY RETRENCHMENT: Employees may be terminated from service by reduction of work force, lack of funds, abolition of the position or material change in duties. Employees shall receive written notification at least thirty (30) calendar days prior to the effective date of separation. Employees terminated under this section shall have grievance rights. Layoffs among employees in equivalent positions shall be made according to seniority.
3. BY DISMISSAL:
  - A. Employees may be dismissed only by the Selectboard or their appointing authority. The Selectboard or appointing authority will conduct a hearing in accordance with MGL, Chapter 30, sec. 21(1) prior to a termination becoming final. Grounds for disciplinary action in SECTION J may also serve as grounds for dismissal.
  - B. The procedure for dismissal: An employee may be suspended immediately by the Selectboard or appointing authority without pay. Such suspension may be verbal but must be followed within twenty-four (24) hours by a written notice of intention to terminate employment. This notice shall include the reasons for dismissal, effective date of dismissal, and instructions on appeal procedures. The Selectboard, or the appointing authority may initiate termination for any of the reasons stated above of any employee employed by the Town of Buckland or for any other offense deemed serious enough to support immediate termination. The following procedures must be adhered to:
    - i. Within one (1) working day after the suspension, the employee shall be given:
      - (a) Written notice stating the specific reason or reasons for dismissal and a copy of the written notice shall be submitted to the Town Administrator and the Selectboard.
      - (b) Information to the effect that within two (2) working days, the employee may request a hearing before the Selectboard or their

appointing authority. The hearing shall be given within ten (10) working days after receipt of such request.

- ii. Within ten (10) working days after completion of the hearing, the Selectboard or the appointing authority shall notify the employee in writing of its decision together with the reasons for said decision. A copy of the decision shall be submitted to the Town Administrator for purposes of record keeping.
- iii. An employee whose discharge under this section is decided to have been without merit shall be deemed not to have been discharged and shall be entitled to compensation for the period for which said employee was not paid and shall automatically be reinstated.

- C. This section does not apply to any appointed employee who is a party to a written contract with the Town of Buckland wherein the terms of discipline and discharge are already covered by said contract, or, to other appointed employees whose positions are governed under Massachusetts General Laws and the terms of discipline and discharge are provided for under such statute.

#### SECTION L - GRIEVANCE PROCEDURES

A grievance is a dispute between an employee and his/her supervisor arising out of an exercise of administrative discretion by the supervisor, but shall not relate to the imposition of discipline under Sections J and K, above. The Grievance Procedure can also be used for disputes between employees. The following options are available:

1. An employee should try to promptly discuss any grievance with his/her supervisor or department head in a mutual effort to resolve the grievance.
2. If, after such a conference, a satisfactory understanding and/or solution of the grievance has not been reached, the employee may speak with the Town Administrator. The Town Administrator shall make an effort to resolve the grievance to the satisfaction of all parties within five (5) working days after the meeting. If, however the employee is not satisfied, he/she may present his/her grievance in writing to the Selectboard or appointing authority.

#### SECTION M - ALCOHOL/DRUGS/TOBACCO USE POLICY

##### PART I - GENERAL:

PART I applies to all employees of the Town of Buckland, including those employees also subject to the requirements of the Omnibus Transportation Employee Testing Act of 1991 (see Part II, below).

The Town of Buckland has a strong commitment to its employees to provide a safe work place and to establish programs promoting high standards of employee health. Consistent with the spirit and intent of this commitment, the Town of Buckland has established this policy regarding drug and alcohol use or abuse. The goal is to establish and maintain a work environment that is free from alcohol and drug use.

Employees of the Town of Buckland are visible and active members of the communities where they live and work. They are inescapably identified with the Town and are expected to represent it in a responsible and creditable fashion.

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

Therefore, the following conduct is prohibited:

1. The illegal manufacture, distribution, use, sale or possession of a narcotic or a controlled substance while on the job or on property leased or owned by the Town, or reporting for work under the influence of a narcotic or controlled substance. Such conduct may be proper cause for disciplinary action up to and including termination of employment. Any illegal substances confiscated will be turned over to the appropriate law enforcement agency.
2. The possession or consumption of alcohol or narcotics, drugs or controlled substances, while on the job or at the workplace, or reporting for work under the influence of alcohol. Such conduct may be proper cause for disciplinary action up to and including termination of employment.

These prohibitions also apply to all breaks and meal periods, without limitation.

Some of the drugs which are illegal under federal, state or local laws include, among others, marijuana, heroin, hashish, cocaine, hallucinogens and/or depressants not prescribed for current personal treatment by a licensed physician. Other drugs may also be illegal, depending on current laws in effect at the time.

Employees are expected to follow any directions of their health care provider concerning prescription medications, and must immediately notify their supervisor if any prescription drug is likely to have an impact on job performance.

All employees will be provided information regarding available drug counseling, rehabilitation and/or employee assistance programs for substance abuse. In addition, employees found in violation of this policy may also be required to participate in a drug or alcohol assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

Employees who are convicted of controlled substance-related violations in the workplace under state or federal law, or who plead guilty or nolo contendere to such charges, must inform their

department head or appointing authority prior to returning to work or within 5 days of such conviction or plea, whichever comes first. Department heads or appointing authorities shall notify the Chair of the Selectboard immediately.

Employees who are convicted, or who plead guilty or nolo contendere to such drug-related violations may be required to successfully complete a drug abuse or similar program as a condition of employment or re-employment.

All employees must sign a statement indicating they have been informed of the rules and requirements of the Drug Free Workplace Act.

Violations of any and all provisions of this Drug and Alcohol Policy may result in disciplinary action.

Questions about Part I of the Town's Alcohol and Drug Policy should be referred to the Town Administrator.

## PART II - OMNIBUS TRANSPORTATION EMPLOYEE TESTING ACT OF 1991

Pursuant to federal regulations promulgated by the Department of Transportation (DOT) under the 1991 Omnibus Transportation Employee Testing Act, certain Town employees are subject to additional drug and alcohol testing requirements. It is the Town's policy to comply fully with these regulations.

1. COVERED EMPLOYEES: The DOT Regulations, found at 49 C.F.R. §382.101 et seq., apply to all Town employees with commercial drivers licenses (CDL) who also operate commercial motor vehicles, such as road repair and maintenance crews, sanitation operators, and also drivers with restricted-use CDLs. This includes, but is not limited to: those drivers who are casual, intermittent or occasional drivers; and independent, owner-operator contractors who are either directly employed by or under lease to the Town, or who operate a commercial motor vehicle at the direction of or with the consent of the Town. With regard to drivers used by the Town more than once a year, but not "employed" by the Town, such as snow plow drivers, these drivers must participate in an alcohol and controlled substances testing program that meets the testing requirements of the Regulations every six months.
2. PROHIBITED CONDUCT:
  - A. Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions with an alcohol concentration of 0.04 percent (or higher).
  - B. Use of alcohol within the four (4) hours prior to performing a safety-sensitive function like driving;
  - C. Use of alcohol on the job;

- D. Use of alcohol during the eight (8) hours following an accident, or until a post-accident alcohol test occurs, whichever occurs first;
- E. Possession of any medication or food containing alcohol while performing a safety-sensitive function;
- F. Refusal to take a required controlled substance and/or alcohol test.
- G. Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions when using any controlled substances, unless a licensed medical practitioner (i.e. doctor) has prescribed the controlled substance and the doctor has informed the employee that the substance does not adversely affect the employee's ability to operate a commercial motor vehicle safely.

3. TYPES OF TESTING REQUIRED:

The following tests are required under the Regulations:

- A. PRE-EMPLOYMENT TESTING FOR CONTROLLED SUBSTANCES: All applicants for employment in covered positions, or candidates for transfer or promotion to such positions, are subject to screening for use of controlled substances.

All applicants who test positive for drugs will not be offered employment with the Town of Buckland.

- B. POST-ACCIDENT: All covered employees shall be tested as soon as practicable after accidents involving a commercial motor vehicle operating on a public way where there has been a citation for a moving traffic violation, or there is a fatality, even if the driver is not cited for a moving traffic violation. Tests for alcohol use shall be conducted within 2 hours, but in no case more than 8 hours of the accident, while tests for controlled substances shall be conducted within 32 hours of the accident. Employees must refrain from all alcohol and controlled substance use until the test is complete. Employees are obligated to cooperate in such testing or will be deemed to have refused. It is the employee's responsibility to make him/herself available for testing.
- C. REASONABLE SUSPICION: An employee shall be tested when a trained supervisor or manager observes behavior, speech, appearance or odor that leads to a reasonable suspicion that the employee has engaged in prohibited conduct, or has been or is using controlled substances without a doctor's prescription. In the case of alcohol use, the observation shall be made during, just preceding or after the workday. No such limitations are placed on observations for impermissible use of controlled substances. Tests for alcohol use shall be conducted within two (2) hours, but in no case more than eight (8) hours, after the observation is made.

- D. RANDOM: Employees shall be tested for the use of alcohol and controlled substances on a random, unannounced basis just before, during or after performance of safety sensitive functions for alcohol or at any time for controlled substances. Each year, the number of random alcohol tests conducted by the Town must equal at least 10% of the average number of all the covered employees. Random drug tests conducted by the Town must equal at least 50% of all covered employees. These percentages are subject to modification based upon future amendments to the application federal regulations.
- E. RETURN TO DUTY AND FOLLOW-UP: An employee who has violated the prohibited alcohol or drug standards shall be tested for alcohol and/or drug use prior to his/her return to performing safety sensitive duties. Follow-up tests are unannounced and at least six (6) tests must be conducted in the first 12 months after an employee returns to duty. More than six (6) tests in the 12 months following an employee's return to duty may be required. In addition, follow-up testing may be extended for up to 60 months following the return to duty.

4. CONDUCTING TESTS:

- A. ALCOHOL: Alcohol testing is conducted using either evidential breath testing (EBT) devices or alcohol screening devices (ASD), in accordance with DOT regulations. The testing is conducted by a person authorized to conduct such tests under DOT regulations. Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered a "negative" test. A test result of 0.04 or greater is considered a "positive" test. If the alcohol concentration is 0.02 or greater, a confirmation test must be conducted. Refusal of an employee to complete and sign the breath alcohol testing form shall be deemed to be a refusal to test.
- B. DRUGS: Drug testing is conducted by analyzing a driver's urine specimen, and must be conducted through a U.S. Department of Health and Human Services certified facility. Specimen collection procedures and chain of custody requirements ensure that the specimen's security, proper identification and integrity are not compromised. The specimen must be tested for the presence of marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP).

DOT rules require a split specimen procedure. Each urine specimen is subdivided into two bottles labeled as primary and split. Both bottles are sent to the laboratory. Initially, only the primary specimen is opened and used for the urinalysis. The split specimen remain sealed at the laboratory. If the analysis of the primary specimen confirms the presence of illegal controlled substances, the driver has 72 hours to request that the split specimen be sent to another DHHS certified laboratory for analysis.

Testing is conducted using a two-stage process. First, a screening test is performed. If the test is positive for one or more of the drugs, a confirmation test is performed for each identified drug. Sophisticated testing requirements ensure that over-the-counter medications or preparations are not reported as positive results.

All drug tests are reviewed and interpreted by a physician designated as a Medical Review Officer (MRO) before they are reported to the employer. If the laboratory reports a positive result to the MRO, the MRO will contact the driver and conduct an interview to determine if there is an alternative medical explanation for the drugs found in the urine specimen. For all the drugs listed above, except PCP, there are some limited, legitimate medical uses that may explain a positive test result. If MRO determines that the drug use is legitimate, the test will be reported to the Town as a negative result.

- C. REFUSAL TO PARTICIPATE/TAMPERING: In general, no covered employee shall refuse to participate in any of the types of alcohol and or drug tests required by DOT regulations. This includes failure to appear for any test within a reasonable time, and failure to remain at the testing site until the completion of the test. Refusal to participate in required testing may, in the case of pre-employment testing, mean that the applicant will not be hired. An employer is prohibited from allowing an employee to perform safety-sensitive functions where the employee has refused to participate in a required test, and such refusal may result in discipline.

If there is any evidence that an employee engaged in sample tampering, such conduct shall be treated as a refusal to participate in testing for purposes of imposing discipline.

5. CONSEQUENCES OF ALCOHOL/DRUG MISUSE (AS DEFINED IN THE FEDERAL REGULATIONS, 49 C.F.R. 382.101, ET SEQ.):

- A. Drivers who have an alcohol concentration (defined as 0.02 or greater) when tested just before, during or just after performing safety and sensitive functions must be removed from performing such duties for 24 hours.
- B. Drivers who engage in prohibited alcohol or drug conduct (that is, who test positive for alcohol or drug use or who refuse to take a required test) must be immediately removed from safety sensitive functions, must be evaluated by a substance abuse professional (SAP), and must undergo a treatment program as defined by the SAP.
- C. Drivers who wish to continue employment with the Town of Buckland must be evaluated by a SAP and comply with any treatment recommendations to assist them with an alcohol or drug problem.

- D. Drivers who have been evaluated by a SAP, who comply with any recommended treatment, who have taken a return to duty test with a result less than 0.02 and/or a urine drug test which is negative who are then subject to unannounced follow-up tests, may return to work.
- E. Drivers who have returned to work under these conditions and who subsequently test positive for alcohol or drugs in accordance with this policy may be subject to discipline up to and including termination. Any such disciplinary action may be subject to the grievance and arbitration procedures contained in any applicable collective bargaining agreement.

6. INFORMATION/TRAINING:

- A. All current and new employees will receive written information about the testing requirements and how and where they may receive assistance for alcohol or drug misuse. All employees must receive a copy of this policy and sign the Confirmation of Receipt (Attachment 1).
- B. All supervisory and management personnel in the Highway Department must attend at least two hours of training on alcohol and drug misuse symptoms and indicators used in making determination for reasonable suspicion testing.

7. RECORD KEEPING:

- A. The Town is required to keep detailed records of its alcohol and drug misuse prevention program.
- B. Driver alcohol and drug testing records are confidential. Test results and other confidential information may only be released to the employer, the SAP, the MRO, and any arbitrator of a grievance filed in accordance with this policy. Any other release of this information, such as to a subsequent employer, may only be made with the driver's consent.

8. PRE-EMPLOYMENT REFERENCES:

- A. The Town must obtain and review the following information from each employer that the prospective driver worked for, in a safety sensitive position, during the previous two years: information about a test in which the employee's blood alcohol was 0.04 or greater; information about a verified positive drug test; information about any refusal to participate in the alcohol and drug testing program; and information about any other violations of DOT drug/alcohol testing requirements.
- B. The prospective employee must provide the former employer with a written release allowing the release of this information, or he/she cannot be hired.

- C. If the previous employer indicates that a positive result was received, or that the employee refused to participate when selected for an alcohol or drug test, the applicant may not be hired unless he/she has consulted with a SAP, received recommended treatment, and tested negative in a return-to-duty test.
  - D. The Town of Buckland must provide the same information to subsequent employers of current Town Employees when provided with a written release.
9. QUESTIONS: Questions about Part II of the Town's Alcohol and Drug Policy should be referred to the Town Administrator.

### PART III - EMPLOYEE ASSISTANCE PROGRAM

The Town of Buckland has established an Employee Assistance Program (EAP). This program is an evaluation and referral service which assists Employees in obtaining treatment for a wide range of problems including: substance abuse, stress-related disorders, eating disorders, anxiety, depression and family relationship problems.

There is no cost for this service to Employees and all services provided are kept confidential between and the EAP provider and the Employee. All Employees may request assistance in dealing with Drug or Alcohol problems from the EAP provider. However, the testing provisions for Covered Employees will not be stayed due to an Employee's participation in an EAP program.

The EAP provider will:

1. Educate and train Employees concerning the effects of Drug use and the misuse of Alcohol on the health, work and personal life of Employees, and
2. Educate and train supervisory personnel in recognizing symptoms of Drug use and the misuse of Alcohol which give rise to reasonable suspicion or reasonable cause, and
3. Advise Employees about available methods of intervening when an Alcohol or Drug problem is suspected, including confrontation, referral to the EAP provider, and referral to management, and
4. Evaluate Employees who have failed a Drug or Alcohol test and who are referred by the Employer, and
5. Determine whether an Employee has satisfactorily completed a program of treatment and rehabilitation.

### PART IV - TOBACCO:

In accordance with State Law and the policy of the Town smoking or using any tobacco product (including chew) on town property is prohibited. No Supervisor who has control or authority

over a Town facility which constitutes a workplace shall knowingly permit a violation of this policy. Any employee having a complaint that he or she is being exposed to smoke or smoking by-products may object to his or her Supervisor. The Supervisor must respond to the employee within ten working days of receipt of the complaint. Violations of any and all provisions of this policy may result in disciplinary action.

## SECTION N - HARASSMENT/SEXUAL HARASSMENT POLICY

It is the policy of the Town of Buckland that there be no physical or sexual abuse of any person involved in any type of contact with Town employees, appointees, board and committee members, volunteers or other representatives of the Town. No one shall be subjected to any unwelcome conduct or communications which have the purpose or effect of unreasonably interfering with an individual's work performance. Further, creating an intimidating, hostile or offensive work environment, is strictly prohibited. No one shall be subjected to any form of intimidation, coercion, retaliation, interference or discrimination for filing a Harassment Report/Grievance.

1. INTRODUCTION: It is the goal of the Town of Buckland to promote a workplace which is professional and which treats all of those who work here with dignity and respect. Harassment of any kind, including sexual harassment is unlawful and will not be tolerated by this organization. Further, any retaliation against an individual who has complained about harassment or retaliation against individuals for cooperating with an investigation of a harassment complaint is similarly unlawful and will also not be tolerated.

Because the Town of Buckland takes allegations of harassment and sexual harassment seriously, we will respond promptly to complaints of harassment and where it is demonstrated to our satisfaction that such harassment occurred, we will act promptly to eliminate the harassment and impose such corrective action as is necessary, including disciplinary action where appropriate.

Neither consent of the persons involved nor mistake as to a person's age are defenses to a complaint of physical or sexual abuse.

2. DEFINITION OF HARASSMENT/SEXUAL HARASSMENT:

- A. "Sexual Harassment" means sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:
  - i. 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,
  - ii. 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.

These definitions are broad and include any sexually oriented conduct, whether it is intended or not, by supervisors, employees and, in some instances, third parties, 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.

Prohibited conduct also extends to any function or activity which is officially sponsored by the Town of Buckland. While it is not possible for the Town of Buckland to list all those circumstances which we would consider to be sexual harassment, the following are some examples:

- Unwelcome sexual advances - whether they involve physical touching or not;
- Requests for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment;
- Assault or coerced sexual acts.

The following conduct may also constitute sexual harassment in certain circumstances:

- Use of sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comments on an individual's body, comments 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;
- Discussion of one's sexual activities; and
- Comments regarding gender stereotypes which demean, embarrass or humiliate employees.

B. Physical abuse means physical contact with a person that intentionally causes the person to sustain bodily harm or personal injury. Physical abuse also includes physical contact with a person that intentionally creates a threat of immediate bodily harm or personal injury.

3. PRIVATE COUNSELING OPTION: If any employee feels they are the victim of harassment/sexual harassment, in addition to the right to file a complaint, they may also seek advice from the Town's Employee Assistance Program. This agency is available to discuss any concerns an employee may have. If the employee desires, this agency will work with them to find a way of resolving the concerns in an informal manner acceptable to the Town employee and in a manner which would offer them as much privacy and confidentiality as is possible. If this option does not resolve the complaint, the employee

may proceed through the Town complaint procedure set forth in Section 4, below.

4. **COMPLAINTS OF SEXUAL HARASSMENT:** If any Town employee believes that they have been subjected to harassment/sexual harassment, it is Town policy to provide the employee with the right to file a complaint with the Town. This may be done in writing or orally to the employee's supervisor. If the employee is unable to file the complaint with the supervisor he/she can report to the Chair of the Selectboard.
  - A. When the supervisor receives the complaint, he/she will then investigate the allegation and make a written report within ten (10) days of the complaint.
    - The supervisor's investigation would include a private interview with the person filing the complaint and with witnesses.
    - He/she will interview the person alleged to have committed sexual harassment.
    - The supervisor may, if necessary, request written statements in addition to the private interviews.
    - Copies of the written finding shall be given to the complainant, the person about whom the complaint was made, and the Selectboard.
  - B. The Selectboard shall consider the findings and act promptly to take whatever disciplinary action they feel is warranted and appropriate to eliminate the offending conduct. (See section 5 below)
  - C. When the investigation is completed through formal or informal procedures, the Town will inform the person filing the complaint and the alleged harasser of the results of that investigation, including allegations that have not been sustained.
5. **DISCIPLINARY ACTION:** If sexual harassment has been committed by a Town employee, the Town will take such action as is appropriate under the circumstances. Such actions may include: counseling, informal or formal reprimands, written or verbal warnings, suspension, reduction in pay, reduction in duties, transfers, and other formal sanctions including termination from employment.
6. **STATE AND FEDERAL REMEDIES:** In addition to the above, if an employee believes they have been subjected to sexual harassment, they may file a formal complaint with either or both of the following government agencies:
  - A. The United States Equal Employment Opportunity Commission  
1 Congress Street, 10th Floor, Room 1001  
Boston, MA 02114  
(617) 565-3200

- B. The Massachusetts Commission Against Discrimination  
Boston Office: Springfield Office:  
One Ashburton Place - Rm 601 436 Dwight Street, Ste. 315  
Boston, MA 02108 Springfield, MA 01103  
(617) 727-3990 (413) 739-2145

#### SECTION O – PRE-EMPLOYMENT PHYSICAL

Applicants for temporary or permanent appointive employment in the Town Highway Department, Police Department, or other positions as may be determined by the Selectboard, shall be certified by a practicing physician, designated by the town, as to his or her physical fitness to perform the duties of the position to which such applicant seeks appointment. The cost of any physical examination required by this section shall be paid by the town and shall be charged to the appropriation of the department in which the position is for which such application was made or temporary employment authorized or shall be charged to such special appropriation as the town may make for the purpose of this section.

#### SECTION P - WORKERS COMPENSATION (INJURIES ON THE JOB)

The following procedures will be followed in order to comply with the policies of the Town of Buckland, Workers Compensation regulations and relevant state statutes with regard to work-related illnesses or injury, including the provisions of G.L. c.41, §§100 and 111F.

1. INITIAL TREATMENT:

- A. Any employee who, while working, becomes ill or injured because of his/her duties and who requires immediate medical care shall be treated by any available first responder and when applicable “911” called if emergency treatment seems necessary. The employee may obtain subsequent medical care as required from a provider of his/her choice.
- B. The initial treating physician or his/her designee will complete an occupational health report to identify any necessary work restrictions or modifications.
- C. The injured employee or the treating physician shall forward a copy of the initial occupational health report to the Town Administrator as soon as practicable and prior to any lost work days.

2. REPORTING:

- A. Whether or not medical attention is sought, each employee who suffers an alleged work-related illness or injury must complete the accident report form approved by the Selectboard and submit it to the Town Administrator within 24 hours of the illness or injury except in emergency situations.

- B. It is the employee's responsibility to notify his/her department head of the illness or injury.
- C. An employee who files a lawsuit or claim against a third party in connection with a job-related injury must notify their department head in writing at the time the suit is filed.
- D. It is the responsibility of the department head to provide notice of employee injury to the Town Administrator.
- E. The Town Administrator is responsible to contact the Selectboard as soon as practicable in the event of a serious employee injury or hospitalization.

3. WORKERS COMPENSATION AND RETURN TO WORK: Workers Compensation benefits apply only to work-related illness and injury and will be administered in accordance with the policies of the Town of Buckland's workers compensation insurance carrier. All employee medical information will not be disclosed to third parties, except those persons necessary to process any claims for benefits, and will be kept confidential to the extent possible.

An employee who may be out of work or require work restrictions during the recovery period must provide medical certification from his/her treating physician documenting the nature of the injury or illness, the prognosis for further treatment and expected return to full work capacity and the physician's opinion as to causality. Such documentation shall be presented to the Personnel Officer as soon as practicable and prior to any lost work days.

An employee returning to work after illness or injury may be required to submit to a physical or psychological examination by a Town-designated medical provider at the expense of the Town prior to being permitted to work.

4. CONVALESCENCE AND SUCCESSFUL RECOVERY: An employee who has been placed on work restrictions or is approved to be out of work for medical purposes shall not engage in any gainful employment without providing written permission of the employee's treating physician to the Personnel Officer.

When so requested, an employee who has been placed on work restrictions or is approved to be out of work for medical purposes shall report for physical/psychological examinations at the Town's expense including Independent Medical Examinations (IME's) at reasonable intervals to determine whether the treatment being sought is appropriate or whether the employee is still incapacitated.

An employee who has been approved for out-of-work status or placed on work restrictions shall comply with all requests by the Town of Buckland or its designated occupational health consultant for information or other medical case management requirements related to the illness/injury.

5. **SANCTIONS:** Failure to comply with the Injury at Work procedures contained herein after written notice of such failure and steps to be taken to correct such failure have been given and a reasonable time allowed for compliance may warrant disciplinary actions up to and including termination.

#### SECTION Q - INJURIES NOT ON THE JOB

If a person is injured off duty (personal time):

- The employee shall notify the Town in a timely fashion.
- The employee shall be required to submit a written statement to the Town from their doctor certifying they are able to return to work full time and full duty as detailed in their job description.
- The Town reserves the right to require the employee to be examined by an Occupational Health Service prior to being allowed to return to work.

#### SECTION R - LIGHT DUTY

The Town's Light Duty Policy is to provide a temporary opportunity to those employees who are unable to perform their normal work assignments due to a disabling on the job injury. Assignment to Light Duty is subject to availability. Light duty work shall be on a strictly voluntary basis and at the option of the injured employee.

### **ARTICLE IV – GENERAL EMPLOYMENT POLICIES**

#### SECTION A – VEHICLE USE

1. **TOWN VEHICLES:** It is the policy of the Town of Buckland that certain positions require employee access to Town Vehicles, either during the work shift or on a 24-hour on-call basis. Town Vehicles are not Personal Vehicles and are not for personal use. Town Vehicles should be viewed as belonging to the citizens of Buckland and are assigned solely for purposes consistent with providing services to those citizens. Town vehicles must not leave Town unless for official Town business.
  - A. Employees are required to have a valid motor vehicle license issued by the Commonwealth of Massachusetts and must show proof of such valid license to his/her Supervisor prior to being assigned a Town Vehicle. The assignment of Town Vehicles for 24-hour use will be made by the Selectboard and will only be considered for employees who require a vehicle for the ordinary and necessary discharge of their job functions. The following criteria will be used in the determination of eligibility for 24-hour vehicle use:
    - i. Officially designated on-call status;
    - ii. Requirement for frequent emergency availability during non-working hours;

- iii. Issuance of a pager or other communication device; and/or;
- iv. Emergency or other equipment contained in the vehicle.

Such Town Vehicle assignment may be rescinded in writing for good reason or cause by the Selectboard.

- B. Prior to the use of a Town Vehicle a copy of the operator's Massachusetts driving record shall be obtained to verify the historical driving record of the operator. Driving records may be obtained annually thereafter. Driving records determined to be a safety concern by the Supervisor of the employee may result in the suspension of Town Vehicle use privileges.

Employees who drive a Town Vehicle are responsible for, but not limited, to the following:

- i. Town Vehicles may only be used for legitimate town business.
  - ii. Operators should exercise sound judgment at all times when using assigned Town Vehicles and should avoid the appearance of misuse.
  - iii. The Massachusetts Ethics Code discusses unwarranted privileges. Using public equipment or resources for personal use constitutes use of an official position to obtain an unwarranted privilege not similarly available to others. Misuse of an assigned Town Vehicle is an ethics violation.
  - iv. Municipal Vehicles will not be used to transport any individual who is not directly or indirectly related to municipal business. Passengers shall be limited to Town employees and individuals who are directly associated with Town work activity (committee members, consultants, contractors, etc.). Family members shall not ordinarily be transported in Town Vehicles unless on official business. Police Officers may transport individuals in the performance of their normal job duties.
- C. Town Vehicles shall contain only those items for which the vehicle is assigned. The Town shall not be liable for the loss or damage of any personal property transported in the Town Vehicle or for any personal property while using their Personal Vehicle for work related travel.
  - D. Employees are expected to keep Town Vehicles clean, and to report any malfunction, damage, needed repairs or other vehicle problems to their supervisors immediately.
  - E. Employees using Town Vehicles are expected to park such vehicles in safe locations and to lock the car when not in use. Operators should never leave vehicles unattended with the ignition keys in the lock or anywhere in the vehicle.
  - F. Employees are to ensure that they and all passenger(s) in a Town Vehicle wear seat belts at all times. Anyone driving a Town vehicle must be at least 18 years of age.

- G. Employees may not operate Town Vehicles or Personal Vehicles being used for work related travel, under the influence of alcohol, illegal drugs, or any controlled substances. All operators of vehicles that require a CDL license must be tested for drugs and alcohol as provided by US DOT regulations.
  - H. Employees operating a Town Vehicle or a Personal Vehicle while on work related travel, shall drive defensively and obey all applicable traffic and parking regulations, ordinances, and laws.
  - I. Employees who are issued citations for any offense while operating or using a Town Vehicle must notify their Supervisor immediately when practicable, but in no case later than 24 hours after the issuance of an issued citation. Employees who incur parking or other fines in Town vehicles will be personally responsible for payment of such fines.
  - J. Smoking is not permitted in a Town Vehicle in accordance with M.G.L. c.270, §22.
  - K. It is the policy of the Town of Buckland that no employee shall ride outside the passenger compartment of a vehicle. All individuals in town-owned vehicles must be seated inside wearing seatbelts. There will be no exceptions to this policy. This policy will be rigorously enforced. Failure to comply may result in disciplinary action.
2. PERSONAL VEHICLES: It is the policy of the Town of Buckland to reimburse employees for reasonable expenses which they incur as a result of Personal Vehicle use on behalf of the Town. Mileage Record and Reimbursement Expense forms must be submitted in a timely manner in order for employees to be reimbursed for such expenses. When an employee is authorized to use a Personal Vehicle for work-related travel, he or she shall be reimbursed for mileage at the IRS standard mileage rate. In addition to the mileage rate, the Town will reimburse employees authorized to travel outside of Buckland, driving a Personal or Town Vehicle, for tolls and reasonable parking expenses when receipts are provided.
3. SANCTIONS: Failure to comply with any and all applicable provisions of this policy may result in disciplinary action up to and including removal of Town Vehicle privileges, suspension, and/or termination.

## SECTION B – TOWN-OWNED EQUIPMENT

USE: Town employees and officials shall be prohibited from using Town owned equipment for private use.

DISPOSAL:

- Pursuant to M.G.L.c.30B, sec.15(f), Departments shall dispose of all tangible supplies that are no longer useful to the Town but have a resale or salvage value of less than \$5,000 using the written procedures approved by the Selectboard. This procedure applies to all tangible supplies, including motor vehicles, machinery, computer equipment, furniture, and other supplies. The term “supplies” does not include real property.
- Property shall be declared surplus by the Selectboard.

Having been so declared and approved for disposition, the following procedures with respect to the property shall be followed by the Department who is responsible for compliance with these procedures:

- Value the Supply: The Department shall value the property in commercially reasonable manner. Valuations shall be aggregated where the property is to be sold in a single lot. If a valuation is \$5,000 or more, the Department must meet the requirements of M.G.L. c.30B, sec.15(b) through (d).
- Offer the Property to Other Departments: The Department shall circulate a list of the property to be disposed of to other Town Departments and shall convey the property to any appropriate Department that can use it.
- Dispose of the Property: If the property is valued at less than \$5,000 and no other Department is interested in the property, the Department shall:
  - Prepare a complete list of the property to be disposed of;
  - Ensure the property is in the best possible condition;
  - Establish a procedure for potential buyers to examine the property;
  - Advertise the pending sale by internet seller sites, notice on the Town website, posting at municipal offices and soliciting quotes (if possible);
  - Forward the offers to the Selectboard who will convey the property to the responsive person making the best offer;
  - Properly record all documents.
- The Town shall reserve the right to accept or reject all offers, and to sell any property to any person offering to pay more than the highest offer received as provided in M.G.L. c.30B, sec.15(d)(1). All property shall be sold on an “as is” basis, with no warranty of any kind, express or implied.
- All monies from the disposition of supplies under this procedure shall be payable to the Town. All revenue from the disposal of supplies under this procedure shall be deposited with the Town Treasurer for deposit in the general fund or appropriate revolving or enterprise fund, as recommended by the Department and approved by the Accountant.
- If the Town receives no offers for a surplus supply, it may be disposed of in any commercially reasonable manner.

### SECTION C – EMPLOYEE FIRE FIGHTERS

Employees who are firefighters, may go fight fires during work hours after appropriate notice to

their supervisor. The firefighter shall return to work as soon as is feasible.

#### SECTION D – EMPLOYEE LICENSES

Employees are required to pay for their own licenses and employees are required to provide copies of those licenses to the Town Administrator.

#### SECTION E – POLICE: PRIVATE DETAILS

##### BUCKLAND POLICE DEPARTMENT - PAID PRIVATE OFF - DUTY DETAIL POLICY

While the Town recognizes that an employee has the right to pursue his/her activities in their off-duty hours, it also recognizes that the off-duty activities of a POLICE OFFICER may involve the use of Buckland Police powers, and open the Town to potential legal action for an off-duty activity in Buckland or another Town. It also recognizes that the regular police duty requirements performed by police officers entail a greater risk to the Town in terms of potential liability than other town positions.

In order to insure that a paid private off-duty detail does not increase the Town's liability exposure, the following policies and procedures will be followed:

1. Approval for a paid private off-duty detail within the Town shall be obtained from the Chief of Police or his/her designee. The Chief of Police or his/her designee will use the following procedures when scheduling private off-duty details:
  - a. The duty shall first be offered to Buckland/Shelburne full-time officers in a fair and equitable manner.
  - b. The duty shall then be offered to reserve/special officers from the officer pool.
2. The Chief of Police or his/her designee will make a good faith effort to fill private off-duty details, community policing details, OUI/Speed Enforcement details as provided for in the above procedures.
3. Vacation leave, personal days or off-duty time will be used by a police officer when in the employ of a private party.
4. Officers may not respond to Town calls while on private duty except in emergency situations when contractors are able to move safely off the roadway. There is no paid on-call status while on private duty.
5. A police officer shall work no more than 9 hours when employed in any paid private off-duty capacity and is scheduled to work a regular shift for the Town on the same day.
6. The Chief of Police will maintain and submit a monthly report to the Board of Selectmen detailing private duty, community policing and OUI/Speed enforcement assignments which shall include the type of detail, the date, the officer performing the detail, the number of hours worked and the monies received. The OUI/Speed enforcement portion shall include the number of stops and any charges, but no names or addresses. This

report shall be in a format acceptable to the Board of Selectmen and receivable by the 15<sup>th</sup> of each successive month.

7. The use of Town-owned vehicles will be in strict accord with Article IV, Section A of the Town of Buckland Personnel Policy.
8. Officers will not be allowed the use of a Town-owned vehicle on private off-duty details except when assisting in traffic duties performed in the Town of Buckland, and only if the use of such a vehicle does not inhibit the regular, official duties of the Police Department. Any other private off-duty detail use must be approved in advance, per occasion, by request of the Chief to either the Board of Selectmen or the Board's liaison to the Police Department.
9. In accordance with the bylaw voted and passed by the Town at the Annual Town Meeting, May 3, 2006, unless there are subsequent Town Meeting changes, the rate of pay for officers on private off-duty details shall be identical to that in use by the Massachusetts State Police for paid details worked by State Troopers on state highways in town. (See below)
10. A regular duty shift shall be eight (8) hours. A regular duty shift shall not be shortened or split so that an officer can work a private off-duty detail unless a town officer is scheduled to cover the balance of the shift.

Annual Town Meeting, May 3, 2006 – The Town voted and passed the following by-law:

The hourly rate and method of calculating compensation for so-called 'paid details' assigned to off-duty police officers shall be identical to those in use from time to time by the Massachusetts State Police for paid details worked by State Troopers on state highways in the town. The procedure for assigning such details shall be on a revolving basis, giving priority to full-time officers (including the Chief) and then to part-time officers, unless and until a different procedure is established by any applicable collective bargaining agreement or, in default thereof, by mutual agreement of the Police Chief and the Selectboard.

SECTION F – WASTEWATER TREATMENT PLANT POLICY

Shelburne Falls Waste Water Treatment Plant personnel will submit Time Off Request paperwork to the Town Administrator before any time off is taken. This includes but is not limited to: when an employee is late for work, leaving early, has an appointment, is sick, on vacation, etc.

SECTION G – PERSONNEL RECORDS

The purpose of this section is to ensure that the Town remains in compliance with applicable

Federal and State laws, specifically M.G.L., c.149, §52C, regarding maintenance of and access to employee personnel files, while at the same time preserving employees' rights of confidentiality with respect to their personnel files.

Definition of Personnel Records: Those records, defined by M.G.L., c.149, §52C, including the name, address, date of birth, job title and description, rate of pay and any other compensation paid to the employee; starting date of employment; the job application of the employee; resumes or other forms of employment inquiry submitted to the employer in response to his advertisement; all employee performance evaluations, including but not limited to, employee evaluation documents; written warnings of substandard performance; lists of probationary periods; waivers signed by the employee; copies of dated termination notices; any other documents relating to disciplinary action regarding the employee.

### POLICY

1. A centralized personnel file shall be maintained for each employee. Such files shall include applications, evaluations, reports and records pertinent to an employees' employment, as defined in Personnel Records, above.
2. To insure the uniformity and confidentiality of employee personnel files, content of and access to files is limited and shall be controlled in accordance with this policy.
3. It is the policy of the Town of Buckland that all employees shall comply with the laws governing public records and confidential information. No employee shall knowingly or willingly release confidential personnel information nor shall employees refuse to provide public information.
4. Town employees have a diminished expectation of privacy as public employees.
5. Pre-employment documents such as applications, resumes, required licenses, reference letters and reports, offer of employment letters, copies of transcripts, pre-employment physical reports, military discharge documentation, Civil Service certifications, and other similar materials shall be included in the personnel files.
6. Post employment documents such as performance appraisals, disciplinary action, notices, physician statements, commendations, Civil Service promotional certifications, copies of information sent to the employee or to third parties about the employee, etc. shall be included in the personnel file.
7. All medical related information will be kept segregated.
8. The appointing authority at their discretion shall determine whether a report or record will be placed in the employee's personnel file, except for information submitted by the employee in rebuttal.
9. Once inserted into an employee's personnel file, documents may only be removed if there is a clear and compelling reason to do so. The employee or the appointing authority must

make such requests. The employee should forward a request to the appointing authority. The employee's supervisor shall forward the request, along with a letter of support or denial to the Selectboard. The Board will make the determination as to whether or not the material in question should be removed from the employee's personnel file.

10. Employee personnel files will be maintained at Town Hall under the supervision of the Town Administrator who will be responsible for their safety and security.
11. It is the responsibility of the supervisor to forward all relevant documents to the Town Administrator for inclusion in the official file.
12. An employee, upon written or verbal request, may, in the presence of the Town Administrator, review, add a rebuttal to a particular document or be provided with a copy of all or part of the employee's personnel file. An employee now or formerly in the employ of the Town may see or receive a copy of his or her own personnel records by asking in person or in writing.
13. Other individuals authorized access to employee personnel files include attorneys or representatives of the employee who have written authorization from the employee; the supervisor and appointing authority who supervise the employee; attorneys or their agents representing the Town, and third parties in response to a court order. A subpoena or court order requires the appearance of the named individual, such as the keeper of the records, and may also require those individuals to bring to a court appearance certain employee records that they have in their possession. The Town will only release confidential personnel information in response to a court order.
14. Notice of Release of Information. The Town Administrator will notify the employee in the event that confidential employee data is released in response to a court order.
15. Verification of Employment. Authorized employees in the Payroll Department may respond, with employees' consent, to requests for verification of employment from banks, mortgage companies, credit card agents, etc. by providing basic public information such as length of service and salary rate.

## SECTION H – ELECTRONIC COMMUNICATIONS AND COMPUTER USAGE

This policy is intended to provide guidance on the appropriate use of the Town of Buckland's electronic communication and information equipment and systems. Such systems include, but are not limited to, computer workstations, hardware and software, electronic mail ("e-mail"), telephones, cellular phones, pagers, facsimile machines, and the internet.

### 1. PRIVACY:

- A. Access and use of the Town's systems is intended for business-related purposes, including communicating with coworkers and colleagues, and researching topics

relevant to Town business. All existing state, federal, and local laws and Town policies apply to conduct while using the Town's systems, particularly those that govern intellectual property protection, sexual or other harassment, misuse of Town resources, privacy rights and confidentiality.

- B. Employees should not expect any right of privacy in said systems, including electronic communications and information made or stored on the Town systems. The Town retains the right to inspect its systems, including any Town-owned or leased computer or electronic communications equipment.
- C. All electronic files and documents originating from or passing through the Town systems are considered to be property of the Town of Buckland.

2. INTERNET GUIDELINES:

- A. It is the Town's policy to restrict Internet access to official Town business.
- B. Employees must not utilize the Internet to knowingly violate any state, federal or local law, or the laws of any other nation.
- C. All appropriate precautions should be taken to detect viruses, including scanning all files and attachments that are downloaded and/or opened from the Internet, before installation or execution of such files/attachments.
- D. Users shall not make an unauthorized attempt to enter into another employee's computer.
- E. All computer hardware and software shall at all times remain the property of the Town of Buckland.
- F. Users shall not disclose confidential information or promote personal political beliefs, discrimination, sexual harassment, or any unlawful activity; nor shall the Town's computers be used for private financial gain, commercial, advertising or solicitation.
- G. Use of the Town's systems, including computers, to display any kind of image or document that is obscene, pornographic, sexually suggestive or explicit is prohibited.

3. E-MAIL GUIDELINES:

- A. The Secretary of State's Office of the Commonwealth has determined that e-mail qualifies as "public records", as defined in Chapter 4, section 7(26) of the Massachusetts General Law. All users should retain a printed or digital record of e-mail sent or received through the Town's systems in the same manner that other paper records are kept by their departments if so required in accordance with the

Records Retention requirements as imposed by Massachusetts General Law Chapter 66, section 8(10).

- B. Users should be aware that opening programs or files attached to e-mail messages may cause computer viruses to infect the Town's systems, and thus should only open such attachments from anticipated and trusted sources.
- 4. TELEPHONE and PERSONAL COMMUNICATIONS DEVICES USAGE: Telephones (including cellular phones) and personal communications devices are provided for business use. Personal use may be permitted, but users should exercise good judgment in such use. Excessive usage for non-business purposes, or misuse, such as to harass or threaten, may result in discipline, up to and including termination from employment.
- 5. VIOLATIONS OF POLICY: Violations of this policy may result in either the suspension or permanent loss of the privilege to use the Town's systems. It may also result in disciplinary action being taken against the employee, up to and including termination from employment. Users shall be personally liable for any losses, costs or damages incurred by the Town related to violations of this policy. The illegal use of the Town's systems may result in referral to law enforcement authorities.

#### SECTION I - WEATHER AND EMERGENCY EVENTS

In all occasions of inclement weather, all town departments are to remain open if they can do so safely. If severe weather conditions persist throughout the work day to warrant an early closing of municipal offices, a decision will be made by the Chair of the Selectboard, or his or her designee.

Hourly employees will be paid only for hours worked and can make up missed time by either utilizing accumulated leave time or make up the time within the next payroll period by working the appropriate missed time. Time sheets are to be noted as "made up time due to inclement weather." Salary employees shall complete their work as necessary and as soon as possible.

SECTION J - CHILDREN IN THE WORKPLACE Town employees are required to obtain permission of a member the Chair of the Selectboard, or his or her designee, to bring children to work in the case of an emergency.

#### SECTION K - AMERICANS WITH DISABILITIES ACT

It is the policy of the Town of Buckland to comply with the requirements of the regulations contained in the U.S. Americans with Disabilities Act of 1990. This policy applies to all employees of the Town of Buckland excluding those employees under the supervision and control of the U61/TRSS.

The Town will not discriminate against people with disabilities in any employment practices or in terms, conditions or privileges of employment including, but not limited to, application, testing, hiring, assignment, evaluation, disciplinary action, training, promotion, medical examination, layoff/recall, termination, compensation, leaves or benefits.

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

The Town will provide reasonable accommodation to the known physical or mental limitations of a qualified applicant or employee unless such accommodation will impose undue hardship upon the Town.

#### SECTION L - WORKPLACE VIOLENCE/POSSESSION OF WEAPONS

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

Weapons are prohibited from the workplace, with the exception of weapons assigned to Police Officers or other authorized licensed personnel.

Workplace violence includes, but is not limited to harassment, threats, physical attack, or property damage. A threat is the 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, pushing, shoving, or throwing objects. Property damage is intentional damage to property which includes property owned by the Town, employees, or others.

The Town subscribes to the concept of a safe work environment and supports the prevention of workplace violence. 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 or 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 to the department head. The Department Head will assess and investigate the incident and determine the appropriate action to be taken. Department head will inform the Selectboard of all reported incidents of workplace violence and will inform the employee of his/her right to have the Police Department notified.

In critical incidents in which serious threat or injury occurs, emergency responders such as Police, Fire and/or Ambulance personnel must be promptly notified. As necessitated by the seriousness of the incident, The Selectboard may assemble a Response Team that consists of staff from the affected Department, Selectboard, Town Administrator, Town Counsel and may include the Employee Assistance Program, Emergency Response, Police Department and others as deemed necessary.

The Response Team is responsible for establishing the protocol in the event of a threat or violent incident that may include but is not limited to:

- evaluating the potential violence problems;
- assessing an employee's fitness for duty (through mental health professionals);
- establishing a plan for the protection of co-workers and other potential targets;
- coordinating with affected parties such as victims, families, employees, media, or law enforcement personnel;
- referring victims to appropriate assistance and community service programs; and
- assuring that immediate (within 24 hours) and on-going counseling is available to traumatized individual.

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.

It is a violation of this policy to engage in any act of workplace violence. Any employee who has been determined by the Department Board/Committee, Department Head, or Police to be in violation will be subject to disciplinary action up to and including termination and, depending upon the violent act, may be subject to criminal sanctions.

Should an employee become the victim of an incident of workplace violence, the Department Head may offer additional referral services to assist in coping with any effects of the incident. Should an employee commit an act of violence and it is determined in the investigation that the employee did in fact, commit the violent act, s/he may be referred to the EAP by the Department Head. In these cases, failure by the employee to keep an initial appointment with the EAP may result in disciplinary action.