



**TOWN OF KENNEBUNK
PERSONNEL POLICY/EMPLOYEE HANDBOOK**

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Chapter 1: Introduction

Section 1.1: INTRODUCTION & PURPOSE

Welcome! As a new or current member of the Town of Kennebunk community, this Personnel Policy/Employee Handbook is a resource to help you understand our organization. Your important contributions ensure that we continue to provide the citizens of Kennebunk with excellent services in the most efficient and effective manner possible.

The general purpose of this handbook is to establish a system of personnel administration that meets the social, economic and program needs of the Town of Kennebunk. This handbook includes policies and procedures for employee hiring and advancement, employee benefits, retirement, employee leave policies, discipline and grievance processes, performance management, and other related policies. The policies in this handbook apply to all employees, unless inconsistent with a collective bargaining agreement. These policies and procedures are not intended to and do not constitute a binding employment contract with any individual or group of employees.

The goals of personnel management in the Town of Kennebunk are as follows:

- A. Promote effectiveness, economy, and productivity in delivering services to the citizens of Kennebunk;
- B. Encourage a commitment to professional excellence in serving the public and continue the professional development and upgrading of employee skills; and
- C. Provide reasonable assurances that all rights and benefits of employees and applicants for employment are protected and respected.

Section 1.2: MISSION STATEMENT

The Town of Kennebunk partners with our community members to deliver superior service in the most efficient and effective manner possible, while preserving, protecting, and enhancing the quality of life of all of our residents, businesses and visitors.

Core Values

Culture of Excellence: We respect members of the public and each other, and treat all with courtesy and dignity. We are an inviting community that welcomes diversity and embraces our differences, promoting an atmosphere of inclusion and acceptance among our residents and visitors. We rely on teamwork to provide a seamless experience for all customers. We uphold high ethical standards in our personal, professional and organizational conduct. We continuously strive to meet the needs of customers through available resources by being flexible and promoting the use of innovation.

Accountability: We accept responsibility for our personal and organizational decisions and actions, while delivering cost-effective and efficient services that are done right the first time.

Communication: We openly communicate with the public and each other by sharing information and soliciting feedback to achieve our goals.

Diversity, Inclusion, Connection: We believe a thriving and vibrant community stems from the diversity of its people. To that end, we strive to ensure people from all backgrounds, experiences and perspectives feel welcomed, respected and accepted.

Environment: We are concerned about our natural, historic, economic, and aesthetic resources and work to preserve

and enhance them for future generations.

Safety: We use education, prevention, and enforcement methods to protect life and property in the community, and maintain our infrastructure and facilities to provide a safe environment in which to live, work, shop, and play.

Trust: We realize the perception of our organization is dependent upon the public’s confidence in our commitment to our core values and to meeting the goals set collectively by the Town Manager and Select Board.

Principles of Excellent Service-

Concern for the Individual	Positive Engagement	Fair and Equitable Service
Professional Service	Timeliness	Effective Communications
Taking Ownership	Teamwork	Customer Focus

Chapter 2: General Principles

Section 2.1: SEVERABILITY

If any provision of these policies and procedures or the application hereof to any person or circumstances is held invalid, this invalidity does not affect other provisions or applications of these policies and procedures, which can be given effect without the invalid provision or application, and for this purpose, the provisions of these policies and procedures are severable.

Section 2.2: AMENDMENTS & INTERPRETATION

The Town of Kennebunk reserves the right to unilaterally amend, delete, modify or change these policies without prior notice and at any time for any reason. The Town Manager and Town Select Board shall have the exclusive and final authority to interpret these policies.

Section 2.3: EQUAL EMPLOYMENT OPPORTUNITY/ANTI-DISCRIMINATION POLICY

As an Equal Opportunity Employer, the Town of Kennebunk shall employ, upgrade, and promote the best qualified person(s) who are available at the salary level established for the position, without discrimination as to race, color sex, sexual orientation or gender identity, physical or mental disability, religion, age, ancestry, national origin or familial status; or any protected status, including citizenship, genetic information, protected veteran status, political affiliation, whistleblower status, or any other status protected by state and/or federal law.

Section 2.4: DIVERSITY, EQUITY, INCLUSION & BELONGING STATEMENT

The Town of Kennebunk is committed to fostering, cultivating, and preserving a safe and welcoming work environment and inclusive workplace culture for all of its employees. As a service organization, we recognize that our most valuable asset is our employees. We encourage our employees to embrace and share their life experiences, inventiveness, innovation, self-expression, and unique capabilities so that we may all better understand and learn from each other. We also embrace and value our employees’ differences in age, color, disability, ethnicity, family or marital status, sexual orientation, gender identity or expression, language, national origin, physical and mental ability,

political affiliation, race, religion, socio-economic status, veteran status and other characteristics that make our employees unique. The collective sum of what makes us unique, along with the capabilities and talent we bring to our work, result in an engaged group of employees committed to providing excellent customer service to all members of the Kennebunk community.

All employees have a responsibility to exhibit conduct that reflects inclusion and respect during work, at work functions, and at all other Town-sponsored events. Employees with questions or concerns are encouraged to seek assistance from a supervisor or an HR representative.

Diversity, Equity, Inclusion & Belonging Initiatives:

- Foster a proactive environment through training opportunities for employees that focus on cultural, gender, and racial awareness and respect.
- Review and develop best practices and policies to identify and incorporate inclusive language.
- Encourage supervisors to create and maintain a welcoming environment for employees to share and acknowledge when they need extra support.
- Create time to gather and listen to diverse voices in order to understand the current workplace culture.
- Recognize and promote cultural events and holidays through website postings, social media, and increased employee awareness.

Goals:

- Respectful communication and cooperation between all employees.
- Teamwork and employee participation that results in the representation of all groups and employee perspectives.
- Enhanced life/work balance through the promotion of wellness opportunities, paid time off, and leave policies to accommodate employees' varying needs.
- Employer and employee contributions to the community we serve to promote a greater understanding and respect for diversity.
- Continue to strive to reimagine internal systems and develop strategies that advance inclusiveness for all groups.

Section 2.5: DISABILITY ACCOMMODATION

The Town is committed to complying fully with the Americans with Disabilities Act (ADA), the Americans with Disabilities Amendments Act (ADAAA), the Pregnant Workers Fairness Act (PWFA), and the Maine Human Rights Act and ensuring equal opportunity in employment for qualified persons with disabilities. All employment practices and activities are conducted on a non-discriminatory basis. Furthermore, the Town is committed to complying with all federal and state laws concerning the employment of individuals with disabilities (including temporary disabilities), and to act in accordance with regulations and guidance issued by the Equal Employment Opportunity Commission (EEOC) and the Maine Human Rights Commission (MHRC). It is the Town's policy not to discriminate against qualified individuals with disabilities in regard to application procedures.

Process

Employees who have mental or physical disabilities, or pregnancy related medical conditions which may impact their ability to perform the essential functions of their job, shall notify their supervisor and Human Resources to request an accommodation. Once the supervisor and Human Resources are aware of the disability or condition, the employee, supervisor, and Human Resources will begin the interactive process.

Interactive Process:

- The employee, supervisor, and Human Resources meet to discuss a potential accommodation.
- The employee, supervisor, and Human Resources review the essential functions of the job. It may be necessary to provide a job description or list of essential functions to the employee's medical provider to confirm the disability and the need for the accommodation.
- The employee, supervisor, and Human Resources will review options for a potential accommodation and will work together to come up with ideas that are reasonable and that do not create an undue hardship for the Town.
- In the event that a reasonable accommodation is determined, it will be documented and placed in the employee's medical file.
- The employee, supervisor, and Human Resources will continue to monitor the need for the accommodation to ensure there are no issues or concerns by either party.

Individuals with a disability who believe they have been subject to discrimination based on disability may discuss the complaint with the Town Manager and/or the Human Resources Director. It is unlawful for the Town, its employees, contractors, or grantees to retaliate against anyone who files a grievance or cooperates in the investigation of a grievance.

Please forward requests for additional information to Human Resources.

Section 2.6: RELIGIOUS ACCOMMODATION

Purpose

Employees are encouraged to submit religious accommodation requests in order to follow their religious beliefs or practices. The Town of Kennebunk will reasonably accommodate an employee's seriously held religious beliefs or practices unless the accommodation would impose an undue hardship on the Town.

Procedures

Reasonable accommodations to religious observances and practices may be submitted to the employee's supervisor. Supervisors are encouraged to accommodate the employee's request to the extent that it does not create an undue hardship. A supervisor may not deny a religious accommodation request that poses an undue hardship without first discussing the request with Human Resources. If both the supervisor and Human Resources agree that the religious accommodation request would create an undue hardship to the Town, the request will be denied and alternative arrangements will be discussed with the employee.

Absences for Religious Purposes

An employee may request an absence from work to participate in religious observances and practices to the extent the absence does not create an undue hardship. Employees are encouraged to provide supervisors at least a two-week notice of the proposed absence. Benefits eligible employees may utilize accrued floating holiday (1 day), personal (2 days), earned paid leave, and vacation time or time off without pay or have the option to make up equivalent time by arrangement with their supervisor. In addition to regular Town holidays, an employee may take time off to observe a special or religious holiday provided that work schedules can be accommodated without undue hardship to the department.

This policy applies to all Town employees.

Chapter 3: Recruitment and Employment

Section 3.1: APPLICATION FOR EMPLOYMENT

Recruitment Process: The Town of Kennebunk's Human Resources Department coordinates and oversees the recruitment, interview, and selection process subject to the requirements of the Town Charter. Within the limits of time in which a position is filled, there shall be as wide a search for qualified candidates as is practicable. The character of this search will vary from position to position, but shall consist of an internal posting in Town departments, and may include external advertising, open competitive examination, contact with state and other employment offices, contact with special sources of information, or any combination. It shall be the duty of the Town Manager or designee to seek out the most qualified employees for the Town based on relative knowledge, skills, abilities, experience and overall performance during the selection process and/or during current or prior service to the Town.

The Select Board shall determine the recruitment process for the Town Manager. The Select Board appoints the Town Manager for a definite term by written contract as outlined in Article III, Sec. 3.08 of the Town Charter.

Pursuant to Article IV, Sec. 4.02 of the Town Charter, it is the Town Manager's duty to nominate certain Town officials and department heads, subject to confirmation by the Select Board, and to appoint all other subordinates and assistants and report all appointments to the Select Board. The Town Manager may delegate this authority to the appropriate department head.

Employment Applications: All candidates are required to complete a Town of Kennebunk employment application regardless of whether supporting documentation is provided. Applications for employment shall be submitted on forms provided by the Town. Applications are only accepted for positions in which a posted vacancy exists.

Conditional Offer of Employment: The Human Resources Department coordinates all conditional offers of employment. Conditional offers of employment are approved by the Town Manager and provided to the candidate in writing. The conditional offer of employment outlines the specific and applicable requirements, based on the nature of the job, which must be met in order for the person to be hired. Examples of conditions of hire may include the applicant's ability to pass a pre-employment physical conducted to the standards of the essential job functions for which the applicant has applied, a criminal conviction and motor vehicle license check, a credit check (if applicable and in conformance with Federal laws) or any other lawful pre-employment screenings. A physician of the Town's choosing conducts the physical. The cost of any conditions of employment is the responsibility of the Town. Psychological and/or polygraph tests may be conducted for positions when applicable and not in conflict with State or Federal laws.

Offer of Employment: Upon satisfactory completion of all conditions of employment, a written offer of employment is extended. After the offer of employment is signed and returned, Human Resources will coordinate the on-boarding process with the appropriate Division Director or designee.

The Town is committed to providing an equitable and competitive compensation package that will attract and retain well-qualified employees.

Section 3.2: EMPLOYEE REFERRAL PROGRAM

Description

The Town of Kennebunk is always looking for good people. It has been our experience that new employees who are

hired through employee referrals are excellent contributors to their departments and the Kennebunk community.

That's where you come in! If you know someone who would be a good addition to the Town of Kennebunk, you may be awarded a referral bonus of \$2,000 (less taxes) if you refer a candidate and they are hired through the Town's normal hiring process.

Employees must refer candidates to Human Resources by submitting a completed candidate referral form. This form is on the Employee Intranet or available in Human Resources.

Program Rules

- All regular full-time and regular part-time Town of Kennebunk employees are eligible for the referral bonus and quarterly drawing, except managers with hiring authority over the referred candidates, Division Director level or above, and Human Resources personnel.
- The referral date cannot be earlier than the date the job opening is posted. The hiring of a referred employee must occur within 180 days (six months) of the initial referral date.
- The referral must represent the candidate's first contact with the Town of Kennebunk. Temporary, seasonal, contract and former employees of the Town are not eligible candidates for referral awards.
- To be eligible for an award, an employee must submit a completed candidate referral form and the applicant's resume or employment application to Human Resources. Candidate referral forms are available in Human Resources or the Employee Intranet.
- The referring employee must agree to have their name used when the Town of Kennebunk contacts the candidate.
- The first employee to refer a candidate will be the only referring employee eligible for payment.
- All candidates will be evaluated for employment consistent with Town employment policies and procedures.
- All information regarding the hiring decision will remain strictly confidential.
- The referring employee must be employed by the Town during the hired candidate's first 60 days of employment to receive payment of the referral bonus.
- Any disputes or interpretations of this employee referral program will be handled through Human Resources.
- All referral bonus payments are paid within a reasonable timeframe 60 days after the referred employee's first day of employment at the Town.

Section 3.3: NEPOTISM & WORKPLACE ROMANCE

Nepotism:

The Town of Kennebunk wants to ensure that employment practices do not create situations such as conflict of interest or favoritism based on employment of relatives. This extends to practices that involve employee hiring, promotion, advancement, and transfer.

The employment of relatives in an organization may present a perceived or actual conflict of interest such as favoritism, personal conflicts, and potential conflicts from outside the work environment that are carried into the Town government and workplace.

For the purposes of this policy, a relative is defined as someone with whom there has been or is a significant personal relationship, including, but not limited to, a spouse, domestic partner, cohabiter (romantic partner/significant other), parent, child, sibling, sibling-in-law, parent-in-law, grandparent, aunt, uncle, niece, or nephew who is related by blood, marriage, adoption or some other relationship, as further defined below:

- *Blood Relative:* Someone who is related to you by birth rather than through marriage or another relationship.

- *Spouse: A legally married person.*
- *Domestic Partnership:* Legal declaration per Public Law 2003, c. 672. Two unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other's welfare.
- *Cohabiter:* To live together as if married, usually without legal sanction.

This policy applies to all current employees and candidates for employment.

To that end:

- Relatives of those currently employed by the Town may be hired only if they will not be working directly for or supervising a relative.
- Current employees may not be promoted, advanced, or transferred into a position where they will be working directly for or supervising a relative.
- A direct supervisor oversees the daily performance of the employee and has authority to recommend or exercise discipline, promotion, rewards, and hiring.

Notwithstanding the general prohibition on employees working directly for a relative as defined above, the Town Manager may grant an exception to this policy under extraordinary circumstances provided that, in advance of any hiring, promotion, advancement, and transfer decisions that involve the supervision of a relative of a current employee, a Division Director submits a comprehensive management plan to the Town Manager for review, which will address any potential conflict of interest and/or appearance of nepotism. The management plan will include the following elements:

- Disclosure of relationship and any past issues or conflict.
- Addition of another Division Director OR the Town Manager (or designee) to the hiring, promotion, advancement or transfer process to ensure equity.
- The final hiring, promotion, advancement or transfer decision, in these cases, will be based on the decision of the group rather than the Division Director.

In the consideration of hiring, promotion, advancement or transfer of a Division Director, the Division Director must disclose the relationship to the Town Manager and the Division Director, in coordination with the Town Manager and Human Resources Director, shall develop a management plan to address any potential conflict of interest and/or appearance of nepotism.

If the management plan is accepted by the Town Manager, it will remain in effect for the duration of the employee's employment with the Town and shall not be altered, revoked, or changed without just cause as determined by an independent review post any conflict.

No hiring, promotion, advancement or transfer involving the supervision of a relative of a current employee of the Town may occur without the approval of a management plan by the Town Manager.

The Select Board shall review and approve similar comprehensive management plans submitted by the Town Manager to address any potential conflict of interest and/or appearance of nepotism that may be directly related to the Town Manager.

Workplace Romance:

To avoid actual or potential conflicts, sexual harassment, and other adverse impacts on the work environment that may result from romantic and/or physical relationships within the workplace, the Town prohibits supervisory

employees from becoming romantically or physically involved with employees directly under their supervision. In the event a supervisor/manager develops a personal relationship with a subordinate in the course of employment with the Town, those employees shall immediately report it to the Town Manager who will take further action as necessary and appropriate under the circumstances. Supervisory employees who violate this policy may be subject to disciplinary action. In the event that coworkers, neither of whom are in a supervisory relationship with one another, develop a personal relationship in the course of employment with the Town, the employees shall immediately report it to their Division Director. The Division Director shall then be responsible for developing a management plan for review by the Town Manager.

Section 3.4: NEW EMPLOYEE ONBOARDING & ORIENTATION

Human Resources oversees and coordinates the New Employee Onboarding and Orientation process. Such orientation may include:

- Review of the Employee Handbook
- Review of the employee's job description
- Review of employee benefits and applications, tax withholding and I-9 forms
- Review of required training, including annual harassment training
- Review of emergency exits in the appropriate buildings of work
- Review of building and door access and computer security/log-in
- Review of Town organization, structure, and culture

Section 3.5: JOB DESCRIPTIONS

Human Resources maintains job descriptions for all positions. Job descriptions are utilized in all postings and advertisements for job openings and are the basis for employee evaluations.

Job descriptions will contain the following information:

- Position Details: Title, Department, Exempt or Non-Exempt Status, Pay Grade, Classification and Union Applicability
- Supervision received and exercised
- Essential duties and responsibilities
- Peripheral or Special duties (if applicable)
- Education and experience qualifications
- Knowledge, skills and abilities qualifications
- Physical requirements and Work Environment
- Diversity, Equity, Inclusion and Belonging & Equal Employment Opportunity Statements

Human Resources and the Division Director/designee review job descriptions on a periodic basis and recommend modifications to the Town Manager. The Town Manager has final approval on all changes and revisions to job descriptions. The Select Board has final approval on all changes and revisions to the Town Manager's job description.

Section 3.6: CLASSIFICATIONS OF EMPLOYMENT

The Fair Labor Standards Act requires the classification of all employees according to the overtime provisions of the law. For the purposes of paying any compensation, all employees are either "Exempt" or "Non-exempt" from overtime compensation. All determinations of wage classification status are made through the job evaluation

process. The Human Resources Director is responsible for classifying all employees.

Exempt employees are generally executives, managers, professional, administrative or outside sales staff who are exempt from the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA). Exempt employees hold jobs that meet the standards and criteria established under the FLSA by the U.S. Department of Labor.

Non-exempt employees are employees whose work is covered by the FLSA. They are *not* exempt from the law's requirements concerning minimum wage and overtime.

Employee Classification: It is the intent of the Town to clarify the definitions of employment classifications so that employees understand their employment status and benefits eligibility. These classifications do not guarantee employment for any specified period of time. Please refer to Chapter 6, page 26, for information on Town benefit offerings.

Employees of the following classifications are subject to all personnel policy rules and regulations, except where specifically excluded.

- A. **REGULAR FULL-TIME EMPLOYEE**: A regular full-time position is year-round in nature with no predetermined end date and scheduled to work no less than 37.50 hours per week on a continuing and indefinite basis. The employee is eligible to receive all Town employee benefits and rights as provided by these rules, except where otherwise provided for in a collective bargaining agreement.
- B. **REGULAR PART-TIME EMPLOYEE**: A regular part-time position is year-round in nature with no predetermined end date and scheduled to work at least 20 hours per week but less than 30 hours per week on a continuing and indefinite basis. An employee in this category may work more than 30 hours per week sporadically for a short duration under certain circumstances but may not work more than 130 hours in a 4-week period. Regular part-time employees who work 20 or more hours per week on a continual and indefinite basis are eligible to receive pro-rated sick leave, vacation leave, and paid holidays, if the holiday falls on a day that the employee is regularly scheduled to work. Regular part-time employees are also eligible to participate in several benefit programs offered through the Town.
- C. **VARIABLE HOUR PART-TIME EMPLOYEE**: An employee in this category does not work a consistent schedule from week to week but is generally actively employed on a year-round basis. The employee usually works under 20 hours per week but may work over 20 hours per week sporadically and on occasion due to the nature of the work. In no event shall their average hours per week exceed 20 in any calendar month. Variable hour part-time employees are not eligible for Town benefits except those mandated by State or Federal law nor do they accrue sick or vacation leave or receive holiday pay. Examples of variable hour part-time employees are: Board Clerks, Filing Clerks in Town Hall, and Recreation Event Coordinators.
- D. **TEMPORARY SEASONAL EMPLOYEE**: An employee in this category works full-time or part-time during a regularly recurring period, such as winter or summer, and for a limited period of time, usually not to exceed six months. Employees in this classification must be rehired for each separate period of employment. Temporary employees are paid for hours worked and receive no other benefits except those mandated by State or Federal laws. Examples of temporary seasonal employees are: Summer Laborers, Community Service Officers, Lifeguards, Summer Camp Counselors and Before/After School Counselors.
- E. **PER DIEM EMPLOYEE**: An employee in this category works a variable and flexible schedule. Work hours

vary from week to week depending on department needs and availability of the employee. An employee of this type is not eligible for Town benefits except those mandated by State or Federal Law, nor do they accrue sick or vacation leave or receive holiday pay. Examples of per diem employees are Per Diem EMTs or Paramedics and Election Clerks.

- F. **ON-CALL EMPLOYEE:** An employee in this category works on an intermittent and as-needed basis. They are paid only for hours worked or by an annual stipend and are not eligible for Town benefits except those mandated by State or Federal law, nor do they accrue sick or vacation leave or receive holiday pay. Examples of on-call employees are call company firefighters.
- G. **STUDENT EMPLOYEE:** An employee in this category is employed during their enrollment in school, including summer employment, as part of internship or apprentice programs, work-study programs or similar arrangements involving the school of enrollment. Student employees and/or interns will be paid as determined by the Human Resources Director in accordance with applicable State and/or Federal laws, as may be amended from time to time. Student employees and interns are not eligible for benefits other than those mandated by State and Federal law. Unpaid internships in the public sector, in which the intern volunteers without expectation of pay/compensation, are generally permissible. Students not employed in such programs may be employed as temporary seasonal employees and are governed by the applicable provisions of this policy and State and Federal law.
- H. **CONTRACT EMPLOYMENT:** An individual in this category receives compensation and benefits (if applicable) under a negotiated personal services contract with the Town. Such an individual has no claim to the benefits contained in the Employee Handbook, except as specifically negotiated or required by law. Contract employment is permitted only in unique and limited circumstances and shall not be used to avoid membership in a collective bargaining unit, applicability of this Policy, or workers' compensation coverage.

Volunteers and Elected Officials

- A. **APPOINTEES TO BOARDS AND COMMITTEES:** People appointed to serve in positions such as the Planning Board or appointed to serve on standing or special committees are volunteers providing service to the Kennebunk community. They are not employees and, except as specifically authorized by the Select Board, do not receive any compensation or benefits. All Board and Committee Members are expected to follow guidelines, procedures, and policies described in the Town's Volunteer Committee Handbook.
- B. **TOWN SELECT BOARD:** Members of the Town Select Board are Officers of the Municipal Corporation and are not considered employees. Members of the Select Board are eligible for compensation as established by Town Charter (Article III, Sec. 3.03).

Section 3.7: PROBATION

All regular full-time and regular part-time employees are considered probationary employees for the first six (6) months of employment unless otherwise provided for by law. The purpose of the probationary period is for the Division Director or designee to observe an employee's work habits, skills, competency, attitudes and other pertinent characteristics for successful job performance. Any regular full-time or part-time employee who receives a promotion or a transfer may be required to serve another probationary period. The probationary period shall be considered an extension of the selection process.

During the probationary period, the Division Director or designee may recommend to the Town Manager that an

employee be removed if unable or unwilling to perform the duties of the position satisfactorily or whose work habits and dependability did not merit the continuance of service. Such a removal will not be subject to review or appeal. At time of hiring, the employee shall be advised of the probationary period.

With prior approval of the Division Director or designee, employees may use accrued sick time, vacation time, compensatory time, personal days and floating holidays during the probationary period.

Performance Appraisal Process for Probationary Employees

During the probationary period, the employee receives a written evaluation at two months, four months, and six months on a form available in Human Resources. Human Resources reviews the evaluations with the Division Director or designee. Prior to the end of the probationary period, the Division Director or designee provides a recommendation regarding continued employment of the probationary employee to Human Resources.. Upon successful completion of the probationary period, the employee receives written evaluations described in Section 3.10, Performance Appraisal Process.

Section 3.8: PROMOTIONS

Town employees shall be afforded the opportunity for advancement. In order to be eligible to apply for promotional opportunities, employees must have completed a full six (6) months of service with the Town of Kennebunk. Employees shall be given first consideration in filling a vacancy when qualified employees are interested in the vacancy. Upon approval by the Town Manager, an existing employee may fill a vacant position without posting the position for external advertisement. Employees may be promoted to a new position without loss of seniority, pay, or job grade to a vacant position. The Town Manager may authorize reclassifications and/or job title changes when appropriate outside of the normal selection process.

Current employees may be given training opportunities to qualify for promotion. However, based on the qualifications, experience, and abilities required for the position, the vacancy may be filled by an outside applicant. Such a decision shall be made only after careful review of the qualifications of all Town employees who apply for the position.

Section 3.9: LAYOFFS

An employee may be laid off whenever it is necessary because of a shortage of funds, lack of work, or related reasons, which do not reflect discredit upon the employee. Layoff decisions shall be based on the needed skill set in each job classification. Seniority within the department may be considered as appropriate.

If the layoff is temporary in nature with the intention to re-employ an employee as soon as possible, coverage in Town sponsored benefits such as health, dental, and vision may continue for 90 days. However, retirement contributions ceases until such time when the employee returns to regular full-time employment.

Section 3.10: COMPENSATION

To the extent feasible, the Town strives to pay Town employees a competitive wage that is comparable to public work and labor market conditions in the area, subject to the availability of financial resources. Wages are determined based on the knowledge, skills, abilities, and level of responsibility of each position.

The Town Manager shall develop a compensation and classification plan (Pay Plan) for regular, non-union employees. As part of the Pay Plan, the Town Manager shall develop an implementation plan that specifies, in

further detail, the principles of implementation. To ensure that the Town maintains competitive and equitable pay practices while accounting for changes in the cost of living and labor market conditions, the Town periodically reviews and updates its pay range structure. The grade classification and pay range for regular, non-union positions are posted on the Human Resources Department web page.

Principles of Compensation

1. Pay equity: All regular full-time and part-time non-union employees shall be paid according to the Town's Pay Plan..
2. Annual wage adjustment: The annual wage adjustment may be a cost of living adjustment, a market adjustment, or a combination of both, and is not necessarily limited by or tied to changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) or other measurements of inflation.
3. The Town Manager may recommend an annual wage adjustment to the Select Board during budget deliberations, subject to voter approval, taking into consideration the following key factors: Town staffing patterns, survey results of the relevant labor market and area municipalities, the rate of inflation, cost of living indicators specific to the Town's geographic area including housing, transportation, and healthcare, and adjustments to compensation packages. Due to budget constraints, economic downturns, or other circumstances and events, the Town Manager may choose not to recommend a wage adjustment to the Select Board nor guarantee that compensation levels will remain the same.
4. Performance Based Merit Program: The Town Manager may each year, at their discretion, establish a Performance Based Merit Program in order to recognize the positive performance of non-union employees. The program will be dependent on available funding.

Section 3.11: PERFORMANCE APPRAISAL PROCESS

Upon completion of the probationary process as described in Section 3.6, regular full-time and regular part-time, non-union employees will follow the annual performance appraisal process as outlined:

- A. The annual evaluation period is January 1 – December 31. Regular full-time and regular part-time, non-union employees are evaluated on an annual basis. The performance appraisal includes a goal setting process for the upcoming calendar year. The Division Director and/or supervisor reviews and approves employee goals.
- B. Human Resources coordinates the distribution of the Performance Appraisal and Goal Setting forms to Division Directors during the period of November 15 – November 30.
- C. The employee's self-assessment portion of the evaluation form and the goal setting form are due to the Division Director and/or supervisor by December 31.
- D. The Division Director and/or supervisor completes the written portion of the evaluation by February 1. The Town Manager evaluates the performance of Division Directors.
- E. Human Resources reviews evaluations with the Division Director and/or supervisor before the Division Director and/or supervisor meets with the employee. Evaluations are due to Human Resources no later than February 1.
- F. The Division Director and/or supervisor schedules individual evaluation sessions with employees during the period of February 15 – February 28. This session includes a review and discussion of the employee's appraisal and goal setting forms.

- G. Upon completion of the evaluation session, the Division Director and/or supervisor and employee signs the form. The Division Director and/or supervisor forwards the form to Human Resources. Completed performance evaluations are retained in the employee's personnel file.
- H. Only individuals who have a job-related interest in reviewing an employee's evaluation shall have access to the document (i.e., immediate Supervisor, Division Director, and Town Manager).

During the course of the year, Division Directors and/or supervisors may conduct additional performance appraisals and work performance evaluations as needed and appropriate. The Town Manager approves exceptions to this policy.

Section 3.12: VERIFICATION OF EMPLOYMENT

All requests for verification of employment and wages shall be forwarded to Human Resources. Verification of wage information is provided only upon written request and approval of the employee. The only exception will be requests made by governmental agencies, as required by applicable law or regulation, or other circumstances in which the Town determines that disclosure is appropriate.

Section 3.13: TRAINING & TUITION REIMBURSEMENT

Training Opportunities

Both the Town and its employees benefit from training opportunities reasonably related to the employee's position. The outcomes of training opportunities is to improve the quality of an employee's job performance, which in turn results in more efficient and effective operations. It shall be the responsibility of the Town Manager and Division Directors to provide Town employees with reasonable opportunities for in-service training and attendance at conferences.

Prior approval by the Division Director or Town Manager is required for all training courses and programs. This approval is subject to available and approved funds in the budget. The Town Manager and Division Director shall authorize employee attendance at out-of-state conference based on available funds and conditions determined by the Town Manager.

College Tuition Reimbursement

To support regular full-time employees of the Town of Kennebunk in improving and expanding their knowledge and skills, the Town assists with the cost of college tuition and books, within the limits of the Town's budget. Applicable programs should focus on subjects clearly related to the employee's work and provide immediate and tangible benefits to the Town and to the employee's professional development.

To qualify: Upon recommendation of the Division Director and approval from the Town Manager, regular, full-time employees may take college level work-related courses from an accredited institution. Employees who commit to a course without approval of their Division Director are responsible for all costs. Work-related courses are those courses in the designated major of that program. All other courses are subject to the Division Director's discretion and subject to the Town Manager's approval.

How to apply: Please see Human Resources or access the Employee Intranet for a Tuition Reimbursement Application.

Reimbursement: The Town reimburses 80% of the cost per credit hour comparable to the current cost, per credit hour,

of a University of Maine system course. Reimbursement is made upon successful completion of the course by submitting a tuition receipt and evidence of a “C” or better grade, or Pass Grade (if Pass/Fail course) to Human Resources. The Town reimburses up to \$100 per course for books. Per IRS, a portion of reimbursements may be considered taxable income. Please contact the Finance Director with questions regarding taxable amounts.

The reimbursement is approved for up to six (6) credit hours per fiscal year (July 1 – June 30). Prior approval from the Division Director and Town Manager is required to take courses during the regular workday, and the employee may be required to utilize accrued time off. To ensure proper budgeting for tuition reimbursement, employees shall notify their Division Director annually by October 1 for the upcoming budget year. Tuition reimbursement is contingent upon voter approval of the Town budget.

An employee who resigns voluntarily with the Town is required to reimburse the Town 100% of college course expenses previously paid for during the current year.

Section 3.14: PERSONNEL FILE

The Human Resources Department is responsible for maintaining centralized personnel files for all active employees. Departments may create and maintain supplemental working personnel files for their convenience, but any records of a permanent nature, for example, employment letters, employee benefits paperwork, performance evaluations, and final written disciplinary actions shall be provided to the Human Resources Department. Division Directors shall contact Human Resources with questions about personnel file retention. Access to an employee’s personnel file are limited to the employee, the Town Manager, Human Resources, Division Director, legal counsel, and other personnel determined to have a legitimate right to know.

Employees may review their personnel file by forwarding a written request to Human Resources. Personnel files may not be removed from Town property and are reviewed by the employee in the presence of the Human Resources Director or designee. Upon written request, employees shall receive a copy of their personnel file.

The Human Resources Department maintains all personnel files for terminated employees as specified by State and Federal retention laws. Any requests for information made under the Maine Freedom of Access Act shall be forwarded to the Human Resources Director.

Section 3.15: RESIGNATIONS

Employees who are considering resigning from their position with the Town are encouraged to discuss the situation with their Division Director and/or supervisor. An employee who chooses to resign is required to submit their resignation to the Division Director and/or supervisor in writing and provide at least ten working days’ notice. The Division Director and/or supervisor shall forward a copy of the resignation letter to the Town Manager and Human Resources. Once the Town Manager has issued a formal written acceptance of the resignation, Human Resources will meet with the employee to conduct an exit interview and to discuss such matters as the final paycheck and benefit status.

Under certain circumstances and situations, the Town Manager has the authority to accept verbal resignations.

Within the next scheduled pay date after the employee’s resignation, the employee will be paid for all credited and unused vacation time (as defined in this personnel policy), and banked earned compensatory time, along with any unused personal days and floating holiday. As described in Section 6.16, Vacations, page 36, any negative balance on an employee’s vacation record shall be paid back to the Town. Eligible employees who have accrued sick leave

time to their credit and separate in “good standing” or retire from the department shall be paid the applicable percentage of their unused sick leave:

- 5 years of consecutive service = 25% of unused sick time, not to exceed 30 days.
- 10 years of consecutive service = 50% of unused sick time, not to exceed 60 days.
- 15 or more years of consecutive service = 75% of unused sick time, not to exceed 90 days.

“Good standing” shall mean that the employee must submit a written notice of their intention to terminate ten (10) workdays in advance of their last day of actual work.

Upon separation, the employee is required to turn in all Town property to the Division Director/designee or Human Resources.

Section 3.16: SEVERANCE PAY

The Town will pay severance pay equal to two (2) weeks of regular compensation in addition to accumulated paid leave to all employees leaving service if they meet any of the following criteria:

- Retirement after 20 completed years of continuous service
- Death

Chapter 4: Conditions of Employment

Section 4.1: EMPLOYEE CONDUCT & PUBLIC RELATIONS

All employees are prohibited from engaging in any conduct that could reflect unfavorably upon the Town or disrupt the efficient administration of the Town. All Town employees must avoid any action that might result in or create the impression of using public employment for private gain, giving preferential treatment to any person, or losing complete impartiality in conducting Town business.

- A. All Town employees are prohibited from soliciting or accepting any gift, gratuity, entertainment, loans, or any other item of monetary value from any person, within or outside Town employment, whose interests may be affected by the employee’s performance or non-performance of their official duties. This does not include fund-raising efforts for the benefit of charitable causes or other departmental programs.
- B. Items of nominal value, such as food and refreshments or unsolicited promotional materials such as pens, note pads, coffee cups, conference tote bags, etc., given or received within the ordinary course of business may be accepted by employees so long as the employee’s acceptance of such items does not otherwise have any actual or perceived influence over the employee’s performance of their job.
- C. Personal business activities or solicitations are prohibited. No employee shall engage in any business other than their regular duties during work hours. The use of Town email for personal business activities or solicitations are strictly prohibited.

Cooperation of all employees is essential to efficiency. Our taxpayers are entitled to the best service we can give them. Cooperation, courtesy and responsibility are the key elements of good service.

The Town expects all employees to:

- Give full and productive work to the best of their abilities and skills.
- To arrive at their department and begin work on time.

- To demonstrate a considerate, friendly and positive attitude toward fellow employees, managers and residents.
- To respect and follow the guidelines, policies and procedures of the Town.
- To comply with all local, State and Federal laws while on the job.

These policies and regulations are provided to assist the Management Team and all employees in functioning at peak efficiency with minimal cost to the taxpayers.

Section 4.2: RULES OF CONDUCT/WORK RULES

Certain guidelines, procedures, rules and regulations regarding employee behavior while at work are necessary for the efficient operation of the Town and for the benefit and protection of the rights and safety of all employees, residents, and visitors. Conduct that interferes with the Town's operations, brings discredit on the Town, or is offensive to residents or fellow employees, will not be tolerated. All employees are expected and required to treat the public with promptness, patience, courtesy and respect. Information about members of the public, gained from their positions, is to be considered confidential. Employees of the Town shall comply with all Federal, State, and local laws and regulations. It is expected of employees to comply with all laws whether working or not and present a standard of conduct which would not bring discredit to the Town. Failure to comply may result in disciplinary action.

Written departmental regulations will supplement these guidelines and will be binding on the employees of the individual departments. In case of conflict between this handbook and the departmental regulations, the more restrictive wording shall take precedence.

Employees of the Town shall maintain high standards of cooperation, efficiency, and economy in their work. Town employees shall cooperate with the public and employees in other Town departments to the fullest extent practical. Division Directors and supervisors shall organize and direct the work of their work units to achieve these objectives.

Under emergency situations, when an employee's supervisor or Division Director is not available, the employee shall perform such duties as shall be assigned by the Division Director or designee present or overseeing the emergency situation.

If an employee fails to meet their obligation, the supervisor may take appropriate disciplinary actions.

It is not possible to establish a rule dealing with every violation of good practices. Therefore, the following is a non-inclusive list of the types of conduct, which may give rise to discipline for any reason, even if not specifically set forth in the following standards:

- A. The expectation is that all employees will conduct themselves and behave in a manner conducive to the efficient operation of the Town. Such conduct includes
 - i. complying with all applicable Federal, State and Town safety and health regulations
 - ii. reporting to work on time and ready for work
 - iii. notifying the supervisor or Division Director when the employee will be absent from work, or unable to report for work on time
 - iv. wearing clothing appropriate for the work being performed
 - v. wearing assigned personal protective equipment
 - vi. performing assigned tasks efficiently
 - vii. maintaining work area cleanliness and orderliness
 - viii. being polite, courteous, prompt and attentive to every resident; and

- ix. refraining from behavior or conduct deemed by the Town to be offensive, disruptive, or undesirable, or which is subject to disciplinary action

B. The following conduct will not be tolerated and may subject the individual employee involved to disciplinary action up to and including termination:

- i. being at work while in a condition not suitable for performing the job, or which represents a danger to oneself, to other employees or residents
- ii. being impaired or under the influence of alcohol, controlled substances such as drugs or narcotics, or any other agents while at work, or the unauthorized possession of any of these agents on the Town property at any time
- iii. operating equipment or performing duties in an unsafe manner and in violation of the Town's Safety policy
- iv. indecent or immoral personal conduct, including the use of profanity or abusive language; displaying offensive pictures, screen savers, etc.
- v. the possession of firearms and knives (exceptions are those authorized for use in the performance of job duties), explosives, or other weapons on Town property or while performing duties for the Town, except that employees may be permitted, as consistent with State statute, to keep their firearms locked in their personal vehicle. The firearms must not be visible in the personal vehicle.
- vi. fighting or provoking a fight on the Town's property or at the Town-sponsored events or while performing duties for the Town
- vii. theft or misuse of the Town's or of another employee's property or that of a resident
- viii. removal of materials or supplies from the Town premises without permission
- ix. threatening, coercing, intimidating or interfering in any way with the work or safety of other employees or residents
- x. engaging in gambling or any other illegal activities on the Town's premises at any time
- xi. falsifying a Town record or report, such as an application for employment, a work record, or time record
- xii. failure to give complete and accurate information on any forms or other Town documents where data is required or requested from the employee
- xiii. making false or malicious statements about the Town or any of its employees or residents
- xiv. entering into or engaging in any activity which affects the Town's business in a detrimental way or otherwise brings it discredit
- xv. disclosing confidential information, as defined by state law, about the Town or its residents without the Town's approval
- xvi. violation of personnel rules and regulations
- xvii. criminal activity
- xviii. insubordination
- xix. failure to correct poor work habits
- xx. disruptive behavior
- xxi. violation of statutes, rules or regulations
- xxii. holding of pornography either by printed or electronic media

C. The possession, sale, or use of a controlled substance other than a drug prescribed by a physician is detrimental to the health of employees, to their job performance, and to the reputation of the Town. For this reason, the following is applicable:

- i. any employee found to be selling or distributing drugs will be subject to immediate termination
- ii. in situations of substance misuse, management may consider the employee's work record and their willingness to undergo treatment before deciding whether termination is required

The examples above are illustrative of prohibitive behavior and are not intended to be all-inclusive. Please direct questions about this section to Human Resources or the Town Manager.

Section 4.3: CONFIDENTIALITY

Many Town employees have access to confidential information pertaining to persons or property in the Town. Employees must not use this privileged information for purposes outside of their employment duties and responsibilities. Town employees are subject to the requirements of the Freedom of Access Act. Many of the records in the Town's possession are public records. State statute will determine which records and information are confidential.

Section 4.4: CONFLICT OF INTEREST

In addition to adhering to general standards of conduct for an employee of any organization, Town employees are expected to treat everyone they serve with complete impartiality and are prohibited from using their official position for personal profit or gain.

Town employees who are authorized to make purchases shall not have any interest, directly or indirectly, in any contract with the Town. No Town employee shall sell goods and/or services to the Town, unless otherwise approved by the Town Manager.

Section 4.5: ATTENDANCE & PUNCTUALITY

Regular attendance and punctuality are of utmost importance in order to have operations run smoothly and efficiently. The Town depends on its employees to arrive at their designated place of work on time until the end of their workday. In the event of an absence because of illness or any other cause, employees are required to notify their Division Director or designee by phone call or text message of the absence a minimum of thirty (30) minutes prior to the start of the workday and on each subsequent day out of work; in the event of an emergency situation, notice should be provided as soon as is practicable. Failure to follow this required procedure is subject to employee discipline, unless the Division Director or designee determines that extenuating circumstances, such as an emergency situation, prevented the employee from contacting the Division Director or designee prior to the start of the work day.

Employees are expected to notify their Division Director or designee if running late and will not be at work by the designated start of the workday.

Healthcare Provider's Note

If an absence due to an employee's illness or injury exceeds three (3) working days, the Division Director/designee or Town Manager may request that the employee provide a note from their healthcare provider before the employee returns to the workplace. The Division Director or designee shall promptly notify Human Resources of any absences from work that meet the definition of a serious medical condition pursuant to the Family Medical Leave Act (FMLA).

Failing to report an absence properly may be grounds for disciplinary action, up to and including dismissal. Excessive absences or tardiness, even when reported, may also be grounds for discipline up to and including dismissal. Unsatisfactory attendance will be reviewed and considered during any promotion considerations.

Section 4.6: INCLEMENT WEATHER & EMERGENCY CLOSINGS

It is the employee's responsibility to arrive at work on time even during periods of inclement weather. The Division Director or designee, without loss of pay to the employee, may exercise judgment and excuse infrequent instances of tardiness due to weather conditions when the employee has made a good faith effort to arrive to work on time. An example is being held up in traffic due to a vehicular accident or road closure. If an employee chooses not to come to work due to weather conditions, the employee will be charged one (1) day of available accrued vacation, personal, or floating holiday paid leave, Earned Paid Leave (if applicable), or compensatory time. Use of sick time is not allowed. If an employee does not have available accrued paid leave, the absence will be unpaid.

At the discretion of the Division Director, a day of remote work may be allowed if the workplace is open but the employee chooses not to come to work due to weather conditions. It is the Division Director's responsibility to ensure that the employee is accomplishing meaningful work and works a normal work schedule during the remote work period. Please refer to the Town's remote work policy or contact Human Resources if you have questions about the Town's Inclement Weather & Emergency Closings policy. Division Directors may request to work remotely due to weather conditions, subject to the Town's remote work policy, with the prior approval of the Town Manager. Otherwise, Division Directors are expected to report to work when the Town Hall is open.

In appropriate cases, determined by the Town Manager, circumstances may require the closing of certain Municipal services. When operations are officially closed due to emergency conditions, the time off from scheduled work will be paid for those employees working that day. Employees who are not otherwise available and able to work on the day of the storm closure due to a scheduled day off, including preplanned vacation or sick leave, are not eligible for administrative pay for storm closures. This does not apply to mandatory staffing for emergency or snow removal personnel or public safety personnel.

In the event that the Town Manager determines closure of Town Hall and all Town of Kennebunk departments due to inclement weather, with exception of essential services (KPD, KFR, and Public Services), the Town Manager can utilize the Town of Kennebunk I Am Responding (IAR) app account as a means to communicate this message to Town of Kennebunk employees. If the closure only affects certain Town of Kennebunk departments, those respective departmental Division Directors will be authorized to utilize the Town of Kennebunk IAR app account to communicate the closure with their respective employees.

Section 4.7: DRESS CODE

Employees are expected to dress in a professional manner and consistent with the nature of the work performed. The Division Director or designee will be responsible for communicating expectations on work attire to members of their Division.

Section 4.8: OUTSIDE EMPLOYMENT

The Town expects employees working full-time and part-time for the Town of Kennebunk to be available for work. The Town does not prohibit the undertaking of additional employment but reserves the right to restrict outside employment that interferes, conflicts, or may conflict with the duties of Town employment. Outside work shall not involve any usage of Town property or services such as telephone, mailing, office space, etc.

Section 4.9: POLITICAL ACTIVITY

While employed by the Town of Kennebunk, employees may not accept appointment or election to any Town of

Kennebunk elective office (i.e., Select Board or School Board). While on duty, employees may not engage in political activity. For purposes of this Section, political activity means to communicate, organize, assist or advocate for or against any candidate for any County, State, Federal or Town of Kennebunk elective office or political cause; and/or to knowingly solicit or receive a political contribution for any candidate for any County, State, Federal or Town of Kennebunk elective office or political cause. Employees may not use Town facilities, equipment or supplies, or use the influence of their employment capacity for purposes of political activity regardless of whether he/she/they are off duty.

This section is not to be construed to prevent Town employees from becoming, or continuing to be, members of any political organization, from attending meetings of political organizations, from donating personal time or resources to a political cause, from expressing their views on political matters, from voting with complete freedom in any election, or from carrying out the duties and responsibilities of an employee's position.

Section 4.10: MAINE DOT ALCOHOL & CONTROLLED SUBSTANCES TESTING

The safety and well-being of our drivers, employees and the general public requires that our drivers perform their duties free from the effects of alcohol and/or drugs. A drug-free workplace is especially important to the transportation industry. A driver who uses or misuses alcohol and/or drugs is a hazard to this Town, the general public, other employees, and him/her/their self.

All drivers who are required to hold a commercial driver's license (CDL) in order to perform safety sensitive work are subject to the alcohol and/or drug testing as outlined in Appendix A of this personnel policy/employee handbook. Town employees who are currently required to hold CDL's work in Public Services or Parks and Recreation Divisions.

Please refer to Appendix A for the Town's Alcohol and Controlled Substances Testing Policy.

Section 4.11: DRUG FREE WORKPLACE

The Town of Kennebunk recognizes that substance use disorder (SUD), formally known as alcoholism and drug dependency, is a treatable disease. Left untreated, it may result in serious personal, professional and family problems. At the same time, the Town is also seriously concerned about the effects of substance use disorder upon an employee's job performance and ability to serve the public.

The Town strongly believes that all employees and members of the public should be able to conduct business in an environment free from substance misuse. Accordingly, the Town expects all employees to report for work and to perform their duties in a manner that does not jeopardize the health, safety and well-being of co-workers and the public.

No employee of the Town shall distribute, dispense, possess, store, use or be under the influence of any alcoholic beverage, malt beverage, fortified wine, intoxicating liquor, illegal drugs, intoxicants, controlled substances, or other useable substances during working hours, including rest breaks and meal periods.

Employees shall not possess, smoke, ingest or be under the influence of tetrahydrocannabinol (THC) or psychoactive cannabis products in the workplace, on or within any Town property, or at any time during which the employee is working, expected to work, and/or on duty. The prohibitions in this paragraph apply to all cannabis usage, medicinal and recreational, whether or not lawful under Maine law.

Any employee who suspects that he/she/they may have a substance use disorder is strongly encouraged to contact the Town's Employee Assistance Program, Division Director/designee and/or Human Resources to seek voluntary diagnosis and treatment. The employee will be provided confidential referral services to an outside agency upon request and receive assistance to determine the extent to which insurance coverage may help pay for such services. All voluntary referrals are confidential. Any violation of this policy may constitute just cause for employee discipline, up to and including termination.

Employee Notification to Employer

As provided in the Drug-Free Workplace Act of 1988, employees are required to notify the Human Resources Director of a criminal or civil conviction for a drug violation occurring in the workplace no later than five (5) calendar days after such conviction.

Within 30 days after receiving notice, the Town Manager will:

- take appropriate personnel action against such employee up to and including termination; and/or
- require the employee to satisfactorily participate in a substance use disorder treatment or rehabilitation program approved for such purposes by a Federal, State or Local health, law enforcement, substance use professional, or other appropriate agency.

The Town Manager, within ten (10) calendar days of learning of such a conviction, will provide written notification to any Federal agency from which the Town receives grant funds.

Section 4.12: SMOKING & TOBACCO USE

The purpose of this policy is to comply with Maine's Workplace Smoking Act and to establish clear guidelines with regard to the use of other tobacco products. It is the policy of the Town of Kennebunk to provide a safe and healthy place of business.

In accordance with the provisions of the Workplace Smoking Act of 1985 and M.R.S.A. 1541-1545 enacted by PL 1993, Chapter 342 and effective January 1, 1994, the Town of Kennebunk adopted a Smoking Policy prohibiting smoking in all Municipal buildings and Municipal vehicles, and within 20 feet (horizontal or vertical) of any entryway, designated walkway, open window, vent, or doorway. In addition, all smokeless tobacco products, such as chew, dip, and Electronic Nicotine Delivery Systems (ENDS) are prohibited as specified above. This Policy applies to all employees, citizens, guests, and other visitors. With prior approval from the Town Manager, the Division Director may designate an outside smoking/tobacco chewing area in an area consistent with State laws.

Employees are expected to exercise common courtesy and to respect the needs and sensitivities of co-workers with regard to the smoking policy. Smokers and tobacco users have an obligation to keep designated smoking areas litter-free and not to abuse break and work rules. Complaints about smoking and/or tobacco issues should be resolved at the lowest level possible but may be addressed through the grievance process. Employees who violate this policy may be subject to disciplinary action.

This policy is not intended to restrict employees, in their efforts to quit smoking, from using FDA approved Nicotine Replacement Therapy (NRT), including patches, gum, nasal spray, inhalers, and lozenges. Employees can seek support with smoking cessation through the Town's Employee Assistance Program and the Maine Tobacco Help Line (1-800-207-1230).

This Policy will be communicated to all employees and posted at all Town owned and operated facilities.

Section 4.13: VIOLENCE IN THE WORKPLACE

It is the Town of Kennebunk's policy to promote a safe environment for its employees. The Town has a zero tolerance policy toward violence or threat of violence by its employees, customers, and the general public and/or anyone who conducts business with the Town. The Town prohibits all violent acts, threats, physical attacks, and other potentially violent and disruptive behavior either in or related to the workplace. Unacceptable behavior includes, but is not limited to, intimidating, threatening or hostile behaviors, physical abuse, vandalism, use of weapons, and oral or written statements, gestures, or expressions that communicate a direct or indirect threat of harm. If an employee is the target of such behavior in the workplace or is a witness to such behavior, improper conduct shall be reported immediately to the employee's immediate supervisor, Division Director, Human Resources, or the Town Manager.

As with any effective safety and health program, there are five main components to a program for preventing workplace violence:

1. Management commitment.
2. Employee involvement. Employees are strongly encouraged to report any concerns about potential violence in the workplace to their supervisor. Remember: "if you see or hear something, say something".
3. Worksite analysis. This involves a variety of worksite examinations by Managers and trained personnel to identify not only existing hazards but also conditions and operations where changes might occur to create hazards.
4. Hazard prevention and control. Management will partner with the Town's Safety Committee and Police Department personnel to establish preventive and effective controls to minimize potential hazards.
5. Training. Employees will receive annual training on ways to identify and react to potential violence in the workplace. This training may be in-person or on-line training, or a combination.

How to Report a Violence in the Workplace Situation

- If the act, altercation, or situation constitute an emergency, call 911 and then notify your immediate supervisor or Division Director. Public Safety shall coordinate response to the emergency incident. In instances that are not emergency situations, contact your immediate supervisor or Division Director. The Division Director shall contact the Town Manager and Human Resources Director, who will coordinate response to the non-emergency incident.
- For non-emergency situations, the Town Manager and Human Resources Director will evaluate the situation and contact the Police Department if criminal activity is suspected or to initiate an investigation. The Human Resources Director will coordinate the investigation process.
- Employees are encouraged to report situations to their supervisors or Division Director that occur outside of the workplace that may affect workplace safety; for example, instances where protection orders have been issued. The Division Director shall notify Human Resources of any such situation.

Responsibility of Supervisors and Division Directors

Supervisors and Division Directors are responsible for assessing situations, making judgments on the appropriate response, responding to reports of or knowledge of violence, and for notifying the Town Manager and Human Resources Director.

The Town shall maintain confidentiality of investigations of workplace violence to the extent possible. The Town will act on the basis of anonymous complaints where it has a reasonable basis to believe there has been a violation of this policy and the safety and well-being of members of the Town community would be served by such action.

Any employee who, upon investigation, is reasonably believed to have committed or threatened to commit a violent

act in the workplace, or related to the workplace, against another employee will be subject to appropriate discipline up to and including termination of employment, criminal penalties, or both. Furthermore, if an employee is threatened either in the workplace or elsewhere by a person not employed by the Town of Kennebunk, and the threats or conduct may threaten their security in the workplace, such threats or conduct should be reported immediately so that appropriate safety and security measures may be taken.

Section 4.14: SAFETY

The Town is committed to providing a safe, healthy working environment for its employees and the public in the operations and public use of Town facilities, including the provision and appropriate use of personal protective equipment, allocation of resources to correct hazardous conditions, job-related safety training, prompt accident reporting, investigation and evaluation, development and implementation of risk reduction and loss control measures and policies as needed.

Employees are required to participate in, cooperate and support the Town's goal of a healthy and accident-free work place. All employees have a role and responsibility in keeping the workplace safe, healthy and productive, and to provide safe and efficient services to the public.

The objectives of the Town's safety program are to promote safety and health awareness, prevent work-related accidents, injuries and occupational illnesses, improve delivery of services through safer work methods, and to instill a strong safety and health culture among Town employees. The Town's Safety Committee holds regular meetings to review all work-related accidents and employee safety concerns. Committee meeting minutes are posted on the Employee Intranet. An employee may report safety concerns by completing and submitting an on-line form on the Employee Intranet; by emailing Human Resources, a member of the Safety Committee, or the Town Manager; or by talking to their Division Director. Employees are encouraged to talk to their Division Director or Human Resources for more information about the work of the Safety Committee.

The Town recognizes that safe work behavior of each employee is a key to meeting these goals. It is the responsibility of each employee to follow all safe work rules and procedures. If an employee is unsure of how to do a particular task safely, they should not proceed until they have received instruction from their supervisor. Employees are obligated to report unsafe working conditions to their supervisor or Division Director immediately. It is the responsibility of each supervisor to monitor and assist employees in the safe performance of their duties and insist on the consistent usage of the proper personal protective equipment (PPE) for the job. Safe work behaviors and attitudes are an expected part of each employee's job duties and performance.

Any employee found in violation of department safety protocols and policies, including violations of this policy, are subject to discipline, up to and including termination.

Section 4.15: FITNESS FOR DUTY REQUIREMENT

Employees are expected to be physically and mentally fit to perform their jobs safely and efficiently at all times. Employees who are not able to perform their jobs or who take medications that might affect their ability to do their jobs should inform their Division Director or direct supervisor immediately.

If a Division Director or designee believes an employee is not fit to perform duties, the employee may be relieved from duty. The Division Director may recommend a fit for duty exam to the Human Resources Director, who will coordinate the fitness for duty requirement. A fit for duty exam may be requested after any extended illness, personal injury, or hospitalization to ensure that the employee can safely return to regular duty. The exam will be

performed by a health care provider of the Town's choosing and will focus on the employee's actual duties as described in the job description. The Town will pay for the exam, and the employee will be compensated during the exam period. The employee shall not return to regular duty until the fitness for duty requirement is fulfilled. An employee who refuses to cooperate during the fit for duty process may be subject to disciplinary action, up to and including termination.

A fitness for duty requirement should not be confused with a regular healthcare provider's note.

Section 4.16: NURSING MOTHERS IN THE WORKPLACE

The Town of Kennebunk supports nursing mothers in the workplace. In compliance with the Nursing Mothers in the Workplace law, the Town of Kennebunk will (1) support a nursing mother to express milk for the nursing child at meal time or during a break period mutually agreed upon by the employee and immediate supervisor, and (2) make reasonable efforts to provide a clean room or other location, other than a bathroom, where an employee may express breast milk in privacy. The employee is encouraged to talk to the immediate supervisor and suggest ideas on an appropriate work location to express breast milk.

The Town of Kennebunk shall not retaliate or discriminate against an employee who exercises the right provided under the law. Please contact Human Resources for more information and assistance.

Section 4.17: TECHNOLOGY USE

Technology resources, computer information systems and networks are an integral part of Town business. The Town provides technology resources to employees to support them in accomplishing their work-related tasks. The following directives have been established in order to protect the Town's technology investment, to safeguard the information contained within these systems and to reduce business and legal risk. Employees are expected to abide by all Federal, State and local laws (including Copyright Law), statutes and ordinances as well as the Town's policies and directives when using technology resources.

Town Owned Technology Resources

Technology resources include, but are not limited to, any desktop computer, laptop computer, tablet computer, desk phone, cell phone, smart device, fax machine, photocopier, Internet, e-mail, digital camera, printer, GPS unit, 2-way radio, surveillance drone, network file server or any related software or hardware used to communicate or to create, assemble, transmit, receive or in any way manipulate or store data and information used as part of the employee's assigned job responsibilities.

Employee access to business information technology tools and resources is provided to employees for the benefit of the Town of Kennebunk and its citizens. The following guidelines have been established for using assigned technology resources.

Acceptable Use of Town Technology Resources

Employees are responsible for ensuring that any technology resource is used in an effective, ethical, productive and lawful manner. Examples of acceptable use are:

- Accessing Internet based resources to obtain business information from commercial/governmental web sites.
- Accessing internal network server-based databases and files for information as needed and/or required as part of their job responsibilities.
- Using e-mail, texts, and phones for business communication.
- Using any supplied technology resource in a manner specified by the employee's supervisor as part of the

employee's execution of their normal job responsibilities.

Acceptable Personal Use of Technology Resources

The Town recognizes that the use of technology resources greatly improves an employee's efficiency both at work and outside of work. Therefore, limited personal use of the Town's technology resources is acceptable. All acceptable personal use is defined below. All personal use must comply with the provisions outlined in this policy. This use must not interfere with the employee's daily work or others' daily work. It also must not interfere with the operation or performance of the Town's computer network.

- E-Mail: Limited use of the Town's e-mail system is allowed under this policy. Reading, composing and sending of personal e-mail should take place during planned break periods or before/after work. All policy directives (described below) addressing the unacceptable use of the Town's e-mail system apply unconditionally to this use.
- Phone/text use: An occasional brief (less than 2 minutes) personal phone call/text is allowed under this policy. Otherwise, all personal phone calls, texting and social media activity should take place during planned break periods or before/after work.
- Printing and photocopying: Occasional use of printers and photocopiers is allowed under this policy. This activity should take place during planned break periods, with prior permission from the employee's Division Director, who shall first make the determination that such use shall not be excessive.
- Internet use: Personal use of Internet access is allowed under this policy but must take place during planned break periods or before/after work. All use shall comply with all standards and directives contained in this policy.

Personal use of any of the Town's technology resources, not specifically referenced in this Acceptable Use section, must be approved by the employee's Division Director. Before approval is provided, the Division Director shall review the request with the Town's IT Department.

Unacceptable Town Use and Personal Use of Technology Resources

Employees must not use the Internet for purposes that are illegal, unethical or harmful to the Town. Examples of unacceptable use are:

- Sending or forwarding chain e-mail. An example is sending the same non-business-related message to more than five recipients or more than one distribution list.
- Creating or forwarding spam.
- Playing games of any kind online or otherwise is strictly forbidden on Town devices or systems.
- Conducting personal business matters during working hours using Town technology resources.
- Any material content that is offensive, harassing, fraudulent, indecent, profane, intimidating or otherwise unlawful shall not be sent by e-mail, voice mail or any other form of electronic communication, or displayed on or stored in Town computers or telecommunication resources.
- Using any Town electronic communication resource or technology resource for any unauthorized or illegal purpose.
- Unapproved software installation on Town equipment. Any software installation must be approved prior to installation and monitored by the IT Department.
- File downloads from the Internet are permitted only for fulfilling normal job duties and responsibilities.
- File downloads to a computer not primarily assigned to the employee is prohibited. File downloads used for upgrading the operating system components, application programs, utility programs and drivers must be approved by the IT Department in advance and must be installed by a member of the IT Department.

Employee Responsibilities

Employees may not use the Town's computer systems in a way that disrupts their use by others. An employee who uses the Internet, e-mail or any other technology resource shall:

- Be responsible for the content of all text, audio, or images that they place, send, receive over the Internet, or that is stored on the Town's network. All e-mail communications should have the employee's name attached.
- Not transmit copyrighted materials without permission of the copyright holder.
- Abide by all Town policies dealing with security and confidentiality of Town records.
- In the event of transmittal of non-public information, employees must ensure that information is delivered to the proper person who is authorized to receive such information for a legitimate use and must be done with the knowledge and prior approval of the employee's supervisor.
- Not forward any privileged e-mail from an attorney representing the Town without permission from the attorney and the Town Manager.

Security

Secure access to Town systems must be protected and kept confidential. User account credentials, including user IDs, passwords and any other forms of access to Town computers and resources must not be written down or transmitted in clear text, or posted on equipment furniture, or anywhere else in the common view. Password changes are required at regular intervals and multi-factor authentication is required for secure systems. The Town also requires personnel with access to computer systems to complete annual cyber-security training programs within a reasonable timeframe.

Mandatory annual training: Employees who access Town systems are required to complete annual Cyber security training. The Division Director and/or Town Manager shall be notified of anyone who fails to complete the mandatory training by the deadline and a determination will be made on revoking the employee's access to Town systems until such time that all training requirements are satisfied

Viruses and other cyber threats are transmitted many ways, including via e-mail messages (especially through file attachments), USB memory devices, CDs, DVDs, networks, hard drives, the Internet, and through music sharing or streaming services. Viruses can infect employee computers through the same technologies that allow data to move from computer to computer. It is the employee's responsibility to:

- Not knowingly introduce a computer virus into Town computers.
- Not use or install any remote media storage device of unknown origin.
- Contact a member of the IT Department or their supervisor immediately if it is suspected that their workstation has been infected by a virus.

It is Town policy to protect computer hardware, software, data, and documentation from misuse, theft, unauthorized access, and environmental hazards.

Monitoring

The Town has the right, but not the duty, to monitor any and all aspects of the employee's use of technology resources, including but not limited to, employee e-mail, voice mail, cell phone, and web activity. This also includes websites an employee visits using a personal smart device while connected to the Town's Wi-Fi. Employees should not have the expectation of privacy in anything they create, access, send, receive or disseminate in any manner as a result of using the Town's technology resources that are provided to assist employees in the performance of their work duties.

Internal and external e-mail, voice mail, text messages and other electronic communications are considered business

records and may be subject to Maine's Freedom of Access Act and/or discovery in the event of litigation. Employees must be aware of this possibility when communicating electronically within and outside the Town.

Section 4.18: DIGITAL COMMUNICATION AND SOCIAL MEDIA USE

A. Town of Kennebunk Social Media, Blogs, and Websites

Purpose of Town social media, blogs, and websites: This policy provides guidelines and procedures for the employee management, administration, and oversight of the Town of Kennebunk's social media platforms, blogs and websites as a means of conveying information to the public. The purpose of Town social media usage is to share information regarding the Town's mission, meetings, events, activities, etc. with the public. The Town has an overriding interest and expectation in protecting the integrity of the content attributed to the Town and to its officials. The Town has ultimate discretion over the content posted on its social media accounts, blogs, and websites and may remove or alter content at any time.

Definition: *Social Media* means content created using accessible publishing technologies through and on the internet. For purposes of this policy, social media includes blogs, wikis, microblogs, message boards, chat rooms, electronic newsletters, online forums, social networking sites, and other sites and services that permit users to share information with others in a contemporaneous manner. Examples include Facebook, Twitter (X), Instagram, YouTube, Snapchat, TikTok and LinkedIn.

Town social media refers to social media sites which the Town establishes and maintains, and over which the Town has control over all postings, except for advertisements or links by the site's owner, vendors, and/or partners. The Town's primary method of communication is the Town's official website.

Maine Freedom of Access Act: Information related to Town business posted on Town social media accounts and websites are subject to Maine's Freedom of Access Act (FOAA) and applicable retention and disclosure requirements.

Authorized users: All existing Town of Kennebunk websites, blogs and social media accounts must have a designated list of authorized users with clearly defined roles and access levels. Only certain, designated employees may be authorized users. Each department must review and update the list annually to ensure accuracy. Any changes to account access must be documented, and only approved personnel may manage or post on behalf of the Town. Upon an employee's departure, their access must be promptly revoked, and account management responsibilities reassigned to ensure continuity and security.

Any employee who creates a website, blog or social media account on behalf of the Town of Kennebunk must obtain approval from the Town Manager or designee in writing before launching the platform and ensure that the access management adheres to the aforementioned.

Principles: The following principles apply to the professional use of social media platforms, blogs and websites on behalf of the Town of Kennebunk.

- Employees need to know and adhere to the Town of Kennebunk policies, including the Town's harassment, bullying, discrimination, and confidentiality policies, when using Town social media, blogs and websites.
- When posting on behalf of the Town, content must primarily relate to official Town business, services, programs, and events. Posts promoting organizations, local businesses, or events must be directly affiliated

or in partnership with the Town and support the Town's goals, community engagement, or economic development. Any shared information must align with the Town's mission and communication policies, ensuring that all content remains relevant, accurate, and appropriate for the intended audience. The Town Manager has final approval in determining whether information qualifies as official Town business.

- When sharing information or images related to accident scenes or emergencies, prioritize the dignity, privacy, and well-being of those involved. Avoid posting content that may be distressing, invasive, or inappropriate for public viewing.
- Although not an exclusive list, some specific examples of prohibited social media conduct include posting commentary, content, or images that are defamatory, pornographic, proprietary, harassing, libelous, or that can create a hostile work environment.
- Employees are not to post or release any information that is considered confidential or not public. Employees should direct questions about confidentiality to Human Resources or their supervisor.
- The Town's social media networks, blogs and other types of online content sometimes generate press and media attention or legal questions. Employees should refer these inquiries to their Division Director or Supervisor.
- Employees should maintain a professional and neutral tone at all times. If a member of the public expresses a complaint, concern, or differing opinion, employees should provide factual information or direct them to the appropriate department for assistance. Employees should never engage in back-and-forth arguments, personal debates, or inflammatory discussions. If employees encounter a situation while using the Town's social media that threatens to become antagonistic, employees should immediately disengage from the dialogue in a polite manner and seek the advice of their Supervisor.
- Employees should seek appropriate permission before referring to or posting images of current or former employees, members, vendors or suppliers. Additionally, employees should seek appropriate permission to use materials that are protected by copyrights, trademarks, service marks or other intellectual property protections. Any question about such materials should be reviewed with the employee's supervisor prior to use of materials that may be subject to such protections.
- Social media use should not interfere with employee's job duties. The Town's computer systems are to be used for business purposes only. When using Town computer systems, use of social media for business purposes is allowed (ex: Facebook) but personal use of social media networks or personal blogging of online content is discouraged and may result in disciplinary action.
- If employees publish content outside of work hours that involves work or subjects associated with the Town, a disclaimer should be used, such as this: "The postings on this site are my own and may not represent the Town of Kennebunk's positions, strategies or opinions".

Guidelines: Employees managing social media on behalf of the Town of Kennebunk are expected to follow these guidelines to ensure consistency, professionalism, and compliance with applicable laws and policies. Social media platforms serve as an official communication tool to inform and engage the public while maintaining transparency and accountability. Employees must adhere to these standards when creating, posting, or moderating content on Town-managed accounts.

- Each Town of Kennebunk-sponsored social media platform should include standard information to maintain consistency across all accounts. This information should include:
 - A clear introductory statement outlining the purpose and scope of the Town's presence on the platform.
 - A statement indicating that the page is maintained by the Town of Kennebunk.
 - A link to the Town's official website.
 - Contact information for the Town.
 - A disclaimer regarding the monitoring and oversight of the platform.

- The Town of Kennebunk will establish a consistent voice and tone for its social media platforms, blogs, and websites, while recognizing that each department may have its own unique style, including the use of humor. However, all communication must remain appropriate, professional, and aligned with the Town of Kennebunk’s policies, as well as the needs and expectations of the community.
- The Town of Kennebunk will not engage in viewpoint discrimination by blocking users or removing or hiding content based solely on personal opinions or perspectives.
 - Content shared on social media platforms is subject to First Amendment protections.
 - Comments or posts should not be deleted unless they violate the Town’s established Terms of Use. Courts may recognize and protect opinions expressed on social media under the First Amendment.

The Town of Kennebunk will ensure that social media content complies with all applicable laws, regulations, and policies, including:

- Guidelines for information management and public records retention.
- Protection of legally restricted content, such as copyrighted or trademarked material.
- Compliance with public records laws and the Freedom of Information Act.

The Town of Kennebunk’s policy on unacceptable comments that may be restricted includes comment(s) that:

- Promote hate or hate speech;
- Promote violence;
- Contain threatening language;
- Are obscene;
- Discuss or encourage illegal activity;
- Promote, foster, or perpetuate discrimination based on creed, color, age, religion, gender, marital status, status regarding public assistance, national origin, physical or mental disability, or sexual orientation and violate Town harassment, bullying, and discrimination policies;
- Contain defamation or libel;
- Share information that could compromise public safety or security;
- Violate legal ownership rights (e.g., copyright laws);
- Contain sexual content or links to sexual content;
- Contain unsolicited commercial promotions, advertisements, or spam that are not relevant to the discussion.

B. Personal Social Media Use

Purpose: The purpose of this policy is to provide guidelines for personal use of social media when referencing the Town. The Town has an overriding interest and expectation in protecting the integrity of the content attributed to the Town and to its officials. The Town understands that employees are free to create and maintain personal social media profiles during non-work hours and on non-work equipment.

Definition of Social Media: *Social Media* means content created using accessible publishing technologies through and on the internet. For purposes of this policy, social media includes blogs, wikis, microblogs, message boards, chat rooms, electronic newsletters, online forums, social networking sites, and other sites and services that permit users to share information with others in a contemporaneous manner. Examples include Facebook, X (Twitter), Instagram, YouTube, Snapchat, TikTok and LinkedIn.

Employees’ Rights: The Town acknowledges employees’ rights to free speech under the First Amendment of the

United States Constitution. However, employee speech that is deemed to be pursuant to an employee's official duties or speech that is personal in nature and not related to a matter of public concern as determined by its content, form, and context, may be restricted by the Town. Further, speech that is personal in nature and related to a matter of public concern may be restricted by the Town under certain circumstances when the employee's speech interferes with Town operations or the employee's performance of regular duties.

This policy in no way restricts, or should be construed to restrict or inhibit, employees' rights to free speech through social media, or other forms of protected free speech, including political speech, as permitted by law.

Employees are permitted to share or repost public information or materials published by the Town itself on social media or by other means.

Maine Freedom of Access Act: Information related to Town business posted on personal social media accounts are subject to Maine's Freedom of Access Act (FOAA) and applicable retention and disclosure requirements.

Principles: The following principles apply to personal use of social media when referencing the Town:

- Employees should use their best judgment when posting Town-related content or content that identifies them as a Town employee acting in an official capacity on personal social media. Employees should also be mindful that such content may be publicly available or shared with other Town officials and may have an impact on Town operations or the workplace. Employees should refrain from personal posts that harass, bully, or discriminate against other Town employees or officials. Employees should also refrain from personal posts that interfere with their performance of duties, working relationships, the workplace, or Town operations. The foregoing content posted by an employee on social media may be subject to applicable Town policies and disciplinary action.
- Employees are not to post or release any information that is considered confidential or not public including personnel matters or sensitive information. Employees should direct questions about confidentiality to Human Resources or their supervisor.
- Social media use should not interfere with employee's job duties. The Town's computer systems are to be used for business purposes only. When using Town computer systems, personal use of social media networks or personal blogging of online content is discouraged and may result in disciplinary action.
- Subject to applicable law, online activity outside of work hours that violates Town policies may subject an employee to disciplinary action or termination.
- It is highly recommended that employees keep Town related social media accounts separate from personal accounts, if practical.

Section 4.19: CELLULAR PHONE USE

The purpose of this policy is to establish guidelines for employee cellular phone usage. This policy outlines the appropriate use of Town owned and personal cellular phones while at work and the safe use of cellular phones while operating Town vehicles and equipment.

As defined by M.R.S.A. Title 29-A, Subsection 2119 and 2121, The State of Maine prohibits the use of handheld cellular phones, including text messaging, while operating a vehicle or equipment. The use of hands-free cellular phones is not in violation of this policy.

Although the Town allows employees to bring their personal cell phones to work, it is expected that employees will keep personal phone calls and text messages to a minimum. While occasional, brief phone calls are acceptable, frequent or lengthy personal calls and texts can affect productivity and disturb others. For this reason, it is expected that employees make or receive personal phone calls and text messages during non-work time as much as practicable. The use of personal cell phones for activities such as games or social media should be limited to break time.

Text Messaging: Text messaging is a convenient and valuable business tool when used properly. As with sending email, employees are expected to use discretion and good judgment when sending text messages. Similar to email and other documents related to Town business, text messages made on Town owned and personal cellular phones are subject to Maine's Freedom of Access Act (FOAA) and applicable retention and disclosure requirements. Sending text messages of a confidential or inappropriate nature should be avoided. Supervisors should also limit the excessive use of text messages as a form of communication to hourly employees when a phone call would suffice.

The Town Manager may authorize a reasonable cell phone stipend to compensate individuals who use personal cell phones for business purposes on a regular basis. Please see your Division Director for more information about the cell phone stipend.

Employees who willfully violate this policy are subject to progressive disciplinary actions for flagrant or continuous non-compliance to include having cellular phone privileges revoked during work hours.

Chapter 5: Compensation and Work Schedules

Section 5.1: PAYROLL

The Town shall make payment on a weekly basis to every employee for salary or wages earned. For pay purposes, the Town's workweek begins Saturday at 12:00 a.m. and ends the following Friday at 11:59 p.m. The Town complies with the provisions of Maine law with respect to timely and full payment of wages. Employees are encouraged to review their paychecks each pay period and to alert the Town if there are any errors, questions or concerns. The Town will make every reasonable effort to correct any underpayment as soon as possible, not to exceed the time periods set forth in Maine law.

Pursuant to State law, in the event that the Town overcompensates an employee through employer error, the Town may withhold up to five [5%] percent of the net amount of the overcompensation during subsequent pay periods without the employee's written permission, not to exceed the amount of overcompensation paid to the employee in the three years preceding the date of discovery of overcompensation. If the employee voluntarily terminates employment before the total amount of overcompensation has been recovered, the Town may deduct the full amount or remaining balance of overcompensation from final wages and benefits accrual payout. The Town may deduct more than five [5%] percent of net pay if:

- The employee agrees in writing;
- The employee voluntarily quits, or
- The employee "knowingly accepts" the overcompensation.

Net pay means the amount of money due to an employee as compensation after any deductions or withholdings other than any withholdings by the employer for recovering any overcompensation.

Pay Day/Direct Deposit

Paychecks will be issued on Friday following each pay period (Saturday through Friday) for work performed during

that pay period. Should the payday fall on a recognized holiday, the paychecks will be issued on the last regular workday prior to that holiday.

The Town requires employees to use direct deposit for payroll to the financial institute of their choice. The Town reserves the right to change from weekly to bi-weekly payroll period with a six (6) week notification to all employees. The Town does not make payroll advances to its employees, nor does the Town make loans to employees.

Recording Time Worked

The Town is required to keep records of hours worked by its non-exempt employees. Non-exempt employees will record their work hours either by a time clock system or by another method established by the Town.

Tax Withholding Forms

The Town follows IRS guidelines and rules for Tax Withholding Forms (Federal W-4 and Maine Withholding). Employees may amend their tax withholding forms once a year and/or due to a major life event such as marriage, divorce, birth of a child, and death. It is the employee's responsibility to determine and elect the appropriate tax withholding from wages. Tax Withholding Forms are available in Human Resources or on the Employee Intranet.

Section 5.2: OVERTIME

The Division Director or designee must approve all overtime in a department in advance. Because of the nature of work and schedule requirements, employees may be expected to work overtime at certain periods. Whenever possible, advance notice of overtime needs will be provided to affected employees. In compliance with state and federal wage and hour laws, non-exempt employees will be paid one and one half their regular pay rate for all hours worked in excess of 40 hours in any one-work week.

Any time worked on a holiday, regardless of what occurs during the rest of the regular workweek, shall be compensated for by overtime pay at time and one-half rate.

Section 5.3: COMPENSATORY TIME FOR NON UNION, NON-EXEMPT PERSONNEL

With approval of the Division Director or designee, an employee who earns overtime may be granted compensatory time in lieu of overtime pay. An employee may accumulate up to 24 hours of compensatory time, after which all overtime shall be paid as wages. To use compensatory time, an employee must receive prior approval by the Division Director or designee at least one (1) day in advance. Compensatory time is earned and paid as outlined in Section 5.2. In the event that a non-exempt (hourly) employee transfers to an exempt position, any accrued and banked compensatory time must be paid out to the employee by the next available paycheck.

Exempt employees are not eligible to accumulate compensatory time.

Section 5.4: DISCRETIONARY TIME OFF FOR EXEMPT PERSONNEL

Fair Labor Standards Act (FLSA) Exempt employees are required to work outside the normal schedule of working or office hours and are compensated on the basis of accomplishing the tasks demanded of the position without regard for specific number of hours worked. Exempt employees are not eligible for overtime pay or compensatory time.

Exempt employees may take occasional discretionary time off without charging such time off to accruals when:

- A. It does not interfere with department operations, or if it does not interfere with the operations of another department.
- B. With prior approval of the Division Director, or, in the case of a Division Director, the Town Manager.
- C. Special circumstances shall be documented and approved by the Town Manager.

Section 5.5: WORK WEEK & SCHEDULES

The Town establishes a work schedule according to the requirements of the Town with the immediate goal of satisfying residents' needs and providing quality service. It is the responsibility of the Division Director or designee to determine employee hours and work schedule to ensure that there is coverage during open business hours. Punctual and consistent attendance is a condition of employment. Starting and stopping times, rest periods and other operational procedures will vary with shifts. In accordance with Maine law, the Town offers employees a consecutive 30 minute unpaid rest break after 6 hours worked, commonly referred to as the "lunch break". The Town will abide by the State of Maine and/or Federal guidelines concerning breaks.

Subject to advance approval by the Division Director or designee, an employee may:

- A. "Flex" their work hours within a single workweek as long as it does not adversely affect customer service or create a burden for other employees. An example is an employee working late one day and leaving early later in the same workweek to attend a school event for their child.
- B. Propose a temporary "strategic flexibility" work schedule plan to include remote or hybrid work schedules.

The Town Manager approves flex work hours or a temporary remote hybrid work schedule for Division Directors.

It is the responsibility of each Division Director to insure all employees adhere to the department's work hours.

Section 5.6: TEMPORARY TELECOMMUTING (REMOTE) POLICY

In the event of inclement weather, a sick dependent, a weather emergency such as a weather disaster or pandemic, or any other reason, the Town of Kennebunk may allow or require employees to temporarily work from home. During the period of telecommuting, the Division Director or designee is responsible for monitoring the work product of the employee and to ensure that there is adequate and meaningful work for the employee to perform. Due to the nature of an employee's position and work responsibilities, temporary telecommuting work may not be available.

Procedures:

For voluntary telework arrangements, such as inclement weather or a sick dependent child, either the employee or Division Director can initiate a temporary telecommuting agreement. The employee and manager will discuss the job responsibilities and determine if the job is appropriate for a telecommuting arrangement, including equipment needs, workspace design considerations and scheduling issues.

In the event of an emergency, the Town of Kennebunk may require certain employees to work remotely. These employees will be advised of such requirements by their Division Director. Preparations should be made by employees and managers well in advance to allow remote work in emergency circumstances. This includes appropriate equipment needs, such as hardware, software, phone and data lines. The IT department is available to review these equipment needs with employees and to provide support to employees in advance of emergency telework situations.

A telecommuting agreement will be prepared by Human Resources and signed by the employee and Division Director. The employee will establish an appropriate work environment within the home for work purposes. The Town will not be responsible for costs associated with the setup of the employee's home office, such as remodeling, furniture or lighting, nor for repairs or modifications to the home office space. The Town will not pay or reimburse employees for the cost of internet service and other utilities used while working remotely.

The Town will determine the equipment needs for each employee on a case-by-case basis. Equipment supplied by the organization is to be used for business purposes only.

Consistent with the Town's expectations of information security for employees working at the office, telecommuting employees will be expected to ensure the protection of proprietary company and customer information accessible from their home office.

Employees should not assume any specified period of time for emergency telework arrangements, and the Town may require employees to return to regular, in-office work at any time.

Chapter 6: Benefits

Section 6.1: BENEFITS CHART

The following chart lists the employment categories and the benefit programs that may apply to each employee. Please refer to Chapter 3, Section 3.5, Classifications of Employment, for the description of each employee category.

Please contact Human Resources, access the Employee Intranet, or refer to the Employee Benefits Summary for more detailed information about benefits and current costs for employee contributions towards employee benefits.

BENEFIT ↓	CLASSIFICATION →	Regular Full-time	Regular Part-time	Variable Part-time	Per Diem	Temporary Seasonal
Group Health Insurance		X	X	X (if eligible under ACA)	X (If eligible under ACA)	
Domestic Partner Coverage		X	X			
Health Reimbursement Arrangement		X				
Health Insurance Buy Out		X				
Life & Dependent Life Insurance		X	X			
MainePERS Group Life Insurance		X				
Dental & Vision Insurance		X	X			
Income Protection		X	X			
Flexible Spending & Dependent Care Accounts		X	X			
Retirement Plans (MainePERS or MissionSquare 401A)		X				
MissionSquare 457 Individual Retirement		X	X			

BENEFIT ↓	CLASSIFICATION →	Regular Full-time	Regular Part-time	Variable Part-time	Per Diem	Temporary Seasonal
Paid Holidays		X	X (If scheduled to work)			
Paid Vacation, Sick Time, Personal Days & Floating Holiday		X	X (Pro-rated)			
Sick Leave Bank		X	X			
Paid Earned Paid Leave (State law)		X	X	X	X	X (Some exclusions)
Family Medical Leave		X	X			
Maine Paid Family Medical Leave		X	X	X	X	X
Continuing Education & Training		X	X			
College Tuition Reimbursement		X				
Workers' Compensation, Unemployment Compensation & Social Security		X	X	X	X	X
Employee Assistance Program		X	X	X	X	X
Service Recognition Awards		X	X			
Town Sponsored Events		X	X	X	X	X
Employee Discounts for Parks & Recreation Programs		X	X			
Resident Beach Parking Permit for Non Resident Employees		X	X	X	X	

Section 6.2: HEALTH, LIFE INSURANCE & SECTION 125

Health Insurance

Regular full-time and regular part-time employees are eligible to participate in a health insurance plan provided by the Town of Kennebunk. Eligible regular full-time and part-time employees will contribute towards a portion of the premium cost for themselves and covered dependents. Eligible regular part-time employees will be responsible for 100% of the premium cost for covered dependents.

Insurance coverage will be effective on the first of the month following enrollment in the plan. Enrollment is offered initially upon hire to eligible employees, as well as due to a qualifying event or portability. For example, an employee hired and enrolled in health insurance on April 15 will have coverage effective May 1.

The Maine Municipal Employees Health Trust's (MMEHT) definition of qualifying events includes: marriage; birth of a child; adoption of a child; and placement of a child for adoption within an employee's home. Portability includes: the loss of previous coverage due to termination of employment/reduction in number of hours worked; coverage is no longer available; a change in the percentage of premium contribution required by the plan; divorce/legal separation; death of the spouse; or loss of Medicaid benefits.

Domestic Partner Coverage: Effective October 1, 2022, the Town's legislative body approved the addition of domestic partner coverage for benefits eligible employees. Please see the Human Resources Department for information.

Please refer to Open Enrollment, Section 6.6.

Health Reimbursement Arrangement

The Town offers a Health Reimbursement Arrangement that reimburses eligible employees and covered dependents for annual medical deductibles and coinsurance amounts.

Continuation of Health Insurance (COBRA)

Pursuant to Federal law, employees and their dependents covered under the Town's group health plan can elect to continue medical coverage (commonly referred to as COBRA) if medical coverage was lost due to a separation from employment, change in employment status, or other qualifying life events. The COBRA law establishes the length or duration of the period in which health insurance may be continued.

MMEHT or Town health insurance carrier will notify employees and dependents, who no longer qualify for the Town's group health insurance coverage, of their health insurance continuation (COBRA) rights.

Affordable Care Act

In compliance with the Affordable Care Act (ACA), variable hour employees who have worked over 1560 hours annually or an average of 130 hours a month over a 12 month "look back" period will be eligible to enroll in an affordable Town Health Insurance plan. The 12-month "look back" period is set and defined by the Town.

Town of Kennebunk Health Insurance Opt out/Buy Out

The Town of Kennebunk offers a health insurance opt out/buy out to eligible regular full-time employees upon verification of coverage of a comprehensive health insurance plan through a parent, spouse, domestic partner, etc. Please see Human Resources for more information.

Maine Municipal Employees Health Trust Life Insurance

Full-time employees who participate in Maine Municipal Employees Health Trust programs currently receive Basic Life Insurance equal to one year's salary at no cost, as long as the employee completed an enrollment application at the time of hire or when signing up for health insurance during the open enrollment period. Participants may purchase Supplemental and Dependent coverage at their expense. If a late enrollee, the employee is subject to evidence of insurability requirements (See Evidence of Insurability, Section 6.7).

MainePERS Life Insurance

Full-time employees may enroll in MainePERS life insurance at time of hire. If a late enrollee, the employee is subject to evidence of insurability requirements (See Evidence of Insurability, Section 6.7). Eligible employees purchase this life insurance at their own expense.

Section 125

Section 125 of the Internal Revenue Code permits regular full-time and regular part-time employees to pay health insurance, dental, vision, and flexible spending account premiums on a pre-tax basis through payroll deduction as part of the Cafeteria Plan. Employees are eligible to join this plan when first employed or during open enrollment. Employees must stay enrolled for the full calendar year.

Please contact Human Resources for more information about health and life insurance, the health insurance buy out and other options included in this section.

Section 6.3: DENTAL & VISION INSURANCE

Regular full-time and regular part-time employees are eligible to participate in the dental and vision plans offered by the Town of Kennebunk. Eligible employees contribute towards a portion of the total premium cost.

Employees have the option to pay premiums by “cashing in” accrued sick leave twice a year in January and June for the calendar year. An equitable “cashing in” amount shall be determined by the Finance Director or designee and communicated to employees prior to annual open enrollment period. If the employee does not have adequate sick time accrued to pay their premium, the amount will be deducted from vacation time. The Town of Kennebunk reserves the right to change or discontinue this option by notifying employees within a reasonable amount of time.

Employees should contact Human Resources to obtain information about employee contributions towards dental and vision premiums and for more information on paying dental and vision premiums with accruals.

Section 6.4: FLEXIBLE SPENDING AND DEPENDENT CARE ACCOUNTS (IRS SECTION 125 PLANS)

The Town offers flexible spending and dependent care account programs to regular full-time and regular part-time employees. Employees may enroll at time of hire or during open enrollment.

Flexible Spending Account (FSA): The employee sets aside tax-free (pre-tax) money for health expenses such as copays and over-the-counter medicine.

Dependent Care Account (DCA): The employee sets aside tax-free (pre-tax) money for dependent care services. The IRS sets the maximum contribution limits for both the FSA and DCA.

Section 6.5: INCOME PROTECTION

At time of hire, the Town offers regular full-time and regular part-time employees short-term disability insurance to protect the employees' income during an extended absence due to non-work-related accident, illness or injury. The employee is responsible for 100% of the premium.

Section 6.6: OPEN ENROLLMENT

Once a year, during the open enrollment period established by the Town, employees are able to:

- Enroll in FSA and/or DCA.
- Change Section 125 Status.
- Enroll in health, dental, and vision plans.
- Add or drop dependents from health, dental, and vision plans.
- Drop coverage in health, dental, and vision plans.
- NOTE: Employees who elect to drop coverage in the Town's health plan must show Verification of Coverage (VOC) from the parent, spouse, or domestic partner's health insurance plan.
- NOTE: Income Protection and life insurance benefits are excluded from the open enrollment period.

Please check with Human Resources for Open Enrollment dates and how to make changes to your plans.

Section 6.7: EVIDENCE OF INSURABILITY

Applications for income protection and life insurance received after the new hire enrollment period are considered late enrollees and must satisfy evidence of insurability requirements from the insurance company. Enrollment is subject to approval from the insurance company and is not guaranteed or automatic. This includes applications for an increase in income protection or life insurance coverage levels.

Section 6.8: RETIREMENT

A. Social Security

Town employees are automatically covered under the Federal Insurance Contributions Act (FICA). The Town pays the current tax assessed by the Federal Government. The employee pays a matching amount through payroll deductions as prescribed by law.

B. MissionSquare Retirement Plan 401a (formerly known as ICMA-RC)

All regular full-time employees are eligible to participate in this defined contribution retirement plan if not contributing in MainePERS. The program offers various investment options, however, due to the complexities of the program and to changes made from time to time, employees should refer to current available literature, for more information.

- i. Employees may begin contributing to the program commencing with their first day of employment. The Town contributes a pre-determined percentage. The employee will contribute a percentage of gross earnings as determined by the Employer and as described in the Plan document.
- ii. Employees may voluntarily contribute up to an additional amount subject to IRS limits. These voluntary contributions are made with after tax dollars, and the Town does not match these contributions.
- iii. Withdrawal of funds from this program are strictly regulated by the Internal Revenue Service, and improper withdrawals may violate IRS Regulations. Request for withdrawals will be sent to MissionSquare Retirement for a determination of conformity with IRS regulations. The Town will not overrule a MissionSquare Retirement determination.

C. MissionSquare Retirement Plan 457 (formerly known as ICMA-RC)

The Town offers all regular full-time and regular part-time employees the option of participating in this 457 deferred compensation retirement plan. The employee may stop or restart contributions twice per calendar year. The Town will not make matching contributions to this plan.

D. Maine Public Employees Retirement System (MainePERS)

MainePERS is available to all regular full-time employees as an optional benefit. Eligible employees may join this defined benefit retirement program on their initial employment date and must remain in the program, without the option of withdrawing from the program, per MainePERS rules. The eligible employee will contribute a percentage of gross earnings, which is set by MainePERS. All employee contributions are made on a tax-deferred basis for federal income taxes. The Town contributions vary each year, based on the MainePERS' Actuarial Report.

The Town offers Special Police and Fire Plans for qualifying Police and Fire employees. All other employees are covered under the Regular AC plan as designated by MainePERS' policies.

Due to the complexities of the program and to changes that are made from time to time, employees should refer to current available literature and MainePERS for information.

MainePERS plan participants receive at no cost a long-term disability benefit. MainePERS determines eligibility and benefit coverage amounts.

E. MainePERS Retire/Rehire Provisions (Retiree Returning to Work)

The Town allows PLD retired employees, including retirees from the Town of Kennebunk, to apply for full-time positions within the Town of Kennebunk under the following conditions:

- 1) the PLD retired employee has a break in service of at least one month;
- 2) a vacant and advertised position exists;
- 3) the retired PLD employee participates in the same competitive employment process as all other applicants, and, if determined to be the top candidate;
- 4) The Town agrees to contribute 100% of the monthly surcharge set by MainePERS for PLD retirement employees who are rehired by the Town.

Section 6.9: VOLUNTARY INSURANCE

A number of different insurance plans offered by private companies may be available for employees to purchase at group rates. All of these plans are separate from the Town sponsored benefits. The employee is responsible for 100% of the premium.

Section 6.10: EMPLOYEE ASSISTANCE PROGRAM (EAP)

The Town of Kennebunk offers an Employee Assistance Program (EAP) to all employees and their household family members. This program is free, confidential and designed to assist employees and their household family members with dynamic challenges. Employees may access the EAP for financial concerns, legal issues, substance misuse, everyday issues, parenting and childcare, retirement, elder care, etc. The purpose of the EAP program is to assist employees and their families in making decisions for a healthy family or relationship. The program may be accessed 24 hours/day, 7 days/week. For more information, please reference brochures located in all Departments and on the Employee Intranet, or contact Human Resources.

Section 6.11: EMPLOYEE DISCOUNTS FOR PARKS & RECREATION PROGRAMS

The Town of Kennebunk is committed to fostering a supportive and engaged workforce by providing employees and immediate family members with opportunities to participate in recreational programs at a reduced cost. To encourage health, wellness, and community involvement, the Town offers a discount on in-house Parks & Recreation programs for eligible employees and their immediate families. This policy establishes the guidelines for employee participation and discount eligibility.

Eligibility:

This discount is available to regular full-time and regular part-time employees of the Town of Kennebunk. The discount applies only to programs run directly by the Parks & Recreation Department and does not extend to programs contracted out to third-party businesses or organizations.

If an employee is no longer employed by the Town of Kennebunk, or their classification changes from regular full-time or regular part-time, the discount will be removed from their recreation household account. Any remaining balance(s) due to the removal of the discount must be paid in full before the employee or their immediate family members can participate in Parks & Recreation program(s).

Discount Structure:

Eligible employees will receive a 30% discount on registration fees for in-house Parks & Recreation programs. Discounts apply to the employee and their immediate family members (spouse, domestic partner and dependent children).

Registration and Use:

Employees must register in person at the Kennebunk Parks & Recreation office and indicate their employment classification to receive the discount. The Parks & Recreation Department will verify employment classification with Human Resources. Discounts are subject to program availability and capacity limits.

Exclusions:

Contracted programs, punch cards, discount tickets, facility rentals, special events, and leagues or tournaments that require external partnerships are not eligible for the discount. Certain high-demand programs may have limited or no discounts based on program funding and capacity.

For any questions regarding eligibility or specific programs, employees may contact the Parks & Recreation Department.

Section 6.12: EMPLOYEE BEACH PARKING PERMIT POLICY

Purpose

The Town of Kennebunk recognizes that employees who work for the Town may not live in the Town. Therefore, the Town will allow eligible employees to purchase one (1) seasonal beach parking permit for Gooch's Middle and Mother's Beach located in Kennebunk.

Eligibility

Employees classified as regular full-time, regular part-time, variable hour part-time or per diem and who do not live in the Town of Kennebunk are eligible for a beach permit. The beach parking permit is valid from June 15th through September 15th each year.

Cost

The eligible employee may purchase one (1) seasonal beach parking permit for the same price as the resident/taxpayer fee as shown on the fee schedule set by vote of the Select Board each year, after notice and hearing.

Procedures

In early June, the Human Resources (HR) Department will provide a list of eligible employees to the Division Directors. Division Directors will notify eligible employees of this benefit. Eligible employees may purchase one (1) seasonal beach parking permit at the Tax Collector or Town Clerk's Offices.

Transferability

Transfer of beach parking permits is strictly prohibited and limited to the eligible Town employee only.

No Refunds/Replacement

No refunds or replacement stickers will be issued for employee beach parking permits.

Section 6.13: WORKERS' COMPENSATION

The Town of Kennebunk provides Workers' Compensation Insurance coverage, as mandated by State law, for all employees. When an on-the-job accident or near miss occurs, the affected employee is to report it immediately to their direct supervisor, Division Director, or designee. The Division Director shall notify the Human Resources

Department by submitting an Accident/Incident Report Form within 24 hours of the accident.

The Division Director, Human Resources Director, and the Town Manager must be notified immediately of serious physical injuries involving loss or fracture of any body part, amputation, an injury that necessitates immediate and/or overnight hospitalization or results in death. Human Resources will coordinate the immediate notification to the Bureau of Labor Standards.

Please reference the Town's Accident Incident Review Policy for appropriate forms including the Accident/Incident Report, Injury/Incident Reporting Form, and the Near Miss & Non-Medical incident Reporting Form. The policy and forms are accessible through the Employee Intranet or by contacting Human Resources.

A. Preferred Provider Program

The Town of Kennebunk encourages a safe work environment and takes an active role to assist the employee with a proper recovery from workplace injuries. The Town has coordinated a preferred provider program for work-related medical services.

As authorized by law under the Maine Workers' Compensation Act of 1992, Title 39-A, M.R.S.A., Section 206, initial medical treatment (first 10 days) must be obtained from one of the Town's preferred occupational health care providers. Please see a supervisor or Human Resources for a list of the Town's preferred providers. Exceptions to this requirement include emergencies or if the injury occurs outside the preferred provider's normal hours of operation. In most cases, visits to the emergency room will require a follow-up visit to one of the Town's preferred providers.

After consultation with Human Resources, the Division Director or designee will schedule the employee's initial visit with a preferred provider.

B. Benefits

Once the Town's workers compensation carrier has determined a claim to be compensable, employee compensation is as follows:

1. 1-7 days: Seven-day waiting period under the Maine Workers' Compensation Law. Employee compensation for the first seven days of the date of incapacity is unpaid by Workers' Compensation. The employee may elect to utilize available sick time or any other accrued and available time; however, the employee must use sick time first.
2. 8-13 days: Between eight and thirteen days, the insurance carrier provides compensation.
3. 14 days or more: All compensation is retroactive to day one by the insurance carrier. The employee's sick leave shall be credited back to their sick time record upon payment by the employee to the Town for the first seven days. (See #5 in this section).
4. When receiving Workers' Compensation payments, the employee may first elect to use their accrued sick time, followed next by any other accrued and available time, to bring the employee up to 100% of normal net pay, if applicable. Net pay, for purposes of this section, shall be defined as an employee's gross base regular weekly wages less Federal and State taxes, FICA, Medicare, and all employee benefit deductions, including retirement contributions.
5. Workers Compensation payments are mailed to Human Resources and processed through the Town's

payroll system. The employee shall receive a Town of Kennebunk payroll check for net pay as defined in (4) above, less any “buy back” of sick time taken during the applicable seven-day waiting period. The employee shall then sign the original workers compensation check(s) over to the Town of Kennebunk.

6. Lost workdays attributable to work-related injuries and illnesses, assuming the injury or illness qualifies for Maine Paid Family Medical Leave, Federal Family Medical Leave, and/or Maine Family Medical Leaves, count and are applied towards the employee’s family medical leave entitlement.
7. Employees receiving Workers’ Compensation must continue to pay their share of employee benefits. Employees with MainePERS are advised to contact MainePERS regarding their defined benefit contributions on Workers’ Compensation payments.
8. Vacation, sick leave, and personal days shall not accrue after an employee has been absent due to a worker compensation injury for one year from the first date of absence.
9. Fire Fighters (by law) are excluded from the waiting period and are eligible for workers compensation benefits from the date of incapacity.
10. Employees receiving workers compensation wages will continue to receive holiday pay.

C. Transitional Work Program (Light Duty)

In the case of an employee out of work due to a work-related injury, Human Resources will coordinate a transitional (light duty) work program with the employee, employee's doctor, and Division Director or designee.

This program is designed to provide less strenuous work or modified work tasks to employees able and approved by their doctor to return to work in some capacity. The work may be in the employee's department or in different departments. Transitional work may start at a reduced schedule with a gradual increase in hours or may include a full-time work schedule as coordinated by the physician, employee and Town. A temporary change to the employee’s work schedule may be necessary depending on the transitional (light duty) assignment.

The Town reserves the right to discontinue the transitional work program or any employee's participation in this program consistent with the provisions of the Workers’ Compensation laws.

The Town will notify the Workers’ Compensation insurance provider when an employee receiving Workers’ Compensation benefits refuses a transitional work assignment.

Section 6.14: UNEMPLOYMENT

Federal and State law govern unemployment benefits. The Town provides such benefits as mandated under these laws.

Section 6.15: TOWN SPONSORED EVENTS

The Town periodically sponsors events that are intended to promote good will and socialization among our employees and families. Employee participation in these events is voluntary and is not considered as time worked. These events are approved by the Town Manager and coordinated by the Town’s Wellness Committee. These events

are usually fully paid by the Town, but sometimes have a nominal cost.

Section 6.16: HOLIDAYS

The Town of Kennebunk recognizes the following holidays:

New Year’s Day	Labor Day
Martin Luther King Jr. Day	Indigenous Peoples’ Day
Presidents’ Day	Veteran’s Day
Patriot’s Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Juneteenth Day	Christmas Day
Independence Day	Floating Holiday (See Below)

Floating Holiday: All non-union regular full-time and regular part-time employees receive one annual floating holiday on January 1 (calendar year). Union employees receive one annual floating holiday on July 1 (contract year). The floating holiday must be taken during the calendar year or contract year it was awarded and cannot be carried forward to the following year or cashed in. Floating holidays may be taken at the request of the employee, subject to supervisor approval.

Paid holidays will be granted to all regular full-time employees. Regular part-time employees whose normal work schedule falls on the holiday will receive holiday pay equal to the hours the employee would normally work that day.

If a regular holiday falls on a Sunday, the following Monday is considered a holiday; if on a Saturday, the preceding Friday, unless otherwise regulated by law. For employees who do not follow a Monday – Friday work schedule, the holiday is recognized on the day on which it actually occurs.

An employee on approved unpaid leave, such as unpaid extended sick leave or leave of absence, shall not be entitled to holiday pay.

Section 6.17: PERSONAL DAYS

All non-union regular full-time and regular part-time employees will receive two personal days on January 1 each year. Union employees receive two personal days on July 1 each contract year. The personal days must be used during the calendar year or contract year they were awarded and cannot be carried forward to the following year or cashed in.

Section 6.18: VACATION

Employees are encouraged to maintain a healthy work/life balance and use available vacation time as it is intended. Regular full-time and regular part-time employees earn paid vacation. The amount of paid vacation is determined by the length of employment with the Town and is accrued based on the employee’s anniversary date. The vacation year is from employment anniversary to employment anniversary date. The Town utilizes an “accrue as you go” system for vacation. After each pay week, employees are able to view the vacation hours posted to their vacation record on Saturday via the attendance tracking system. Employees are responsible for verifying the accuracy of their vacation. Please see Human Resources for more information.

Eligible employees earn vacation time based on the following schedule (see chart below). Regular part-time

employees will be granted pro-rated vacation time based on their normal work schedule. The amount of vacation time an employee receives is based on the employee’s actual weekly hours worked. Vacation pay is based on the employee’s regular rate of pay at the time vacation is taken. Vacation accrual is determined according to the following schedule:

All Regular Full-time and Regular Part-time Employees:

Years of Continuous Service	Eligible Vacation Time
After one (1) year	three weeks
After five (5) years	four weeks
After ten (10) years	four weeks and three days (or 3/5 of your work schedule).
After fifteen (15) years	five weeks and 1 day or 1/5 of your work schedule

Effective July 1, 2022 for New Hires

1. During the first six months of employment, employees may request up to a maximum of one week’s vacation (5 days), subject to approval by the Division Director. Taking such leave, before it is earned and posted to the employee’s vacation record, may result in a temporary negative balance on the employee’s vacation accrual record. At six months’ of employment and going forward thereafter, an employee shall not be granted vacation that will result in a negative vacation accrual balance.
2. This shall be considered an advance in pay, and upon separation from the Town, any negative balance on the employee’s vacation accrual record shall be paid back to the Town. The appropriate amount will be withheld from the employee’s final paycheck.
3. Human Resources will communicate this policy in writing to all newly hired employees and obtain employee signatures denoting understanding of the policy (#1-3 above).

Please refer to the Town’s Earned Paid Leave policy (Section 7.2). New hires may be eligible to use Earned Paid Leave after 120 days of employment.

Requesting Vacation Leave

Requests for vacation are submitted and must be approved by the Division Director or designee through the Town’s attendance tracking system. The employee’s Division Director or designee will schedule Division vacations in accordance with operational needs.

Vacation requests will be approved within a reasonable amount of time by the Division Director or designee, or in the case of the Division Director, the Town Manager or designee. Vacation time will only be granted for time already accumulated and on the employee’s current vacation time record, except as described in “Effective July 1, 2022 for New Hires” section above. When an employee’s time off request is approved but the employee subsequently fails to retain adequate accruals to cover the vacation period, the approval may be withdrawn. Employees are not allowed to take planned time off unpaid as a way of “saving” their accrued vacation time for future use. Under normal circumstances, vacations will not be granted for periods longer than two weeks at any one time unless approved by the Town Manager.

Employees are not allowed to receive vacation pay in lieu of vacation taken. Vacation leave requested and taken

must be in a minimum of one-half (1/2) hour increments and subject to Division Director and/or Town Manager approval.

Carry Forward of Vacation Time

Employees are encouraged to take their vacation in the year it is earned. On the employee's anniversary date (of hire) each year, if all vacation is not used, employees may carry forward up to a maximum of six weeks of vacation time; however, all excess vacation time over six weeks will be removed from the employee's record. The employee will continue to accrue vacation during the year beyond six weeks but will lose all excess time over six weeks at the employee's next anniversary date (of hire).

At the time of separation or retirement, employees in good standing shall be paid the wages equivalent to the accrued vacation on the employee's record. "Good standing" shall mean that the employee must submit a written notice of their intention to terminate ten (10) workdays in advance of their last day of actual work.

Section 6.19: SERVICE RECOGNITION

Purpose

The Town of Kennebunk values the contributions, knowledge and experience of long-term employees. In appreciation of this dedicated service, the Town of Kennebunk recognizes employees as they reach milestone anniversaries of employment and retirement.

Eligibility

Employees categorized as regular full-time and regular part-time and actively working are eligible for a service award. Employees become eligible for a service award in the year in which they complete 5, 10, 15, 20, 25, 30, 35, 40, 45, years of service. For purposes of the Service Recognition Policy only, service awards are determined by employees' original date of hire as a regular full-time or regular part-time employee with the Town, even if breaks in service have occurred. However, the time during the breaks in services shall not count towards years of service. Employees become eligible for retirement recognition awards at the time of retirement and following completion of 20 or more years of employment even if breaks in service have occurred, excluding the time during the breaks in service.

Service Award Procedures

The Human Resources (HR) department will coordinate with Kennebunk businesses that offer gift cards to allow employees to select either a gift card from a local business or an AP check from the Town in recognition of their tenure or retirement.

HR will send selection sheets and instructions to the employees being recognized. Employees must return the order form to HR.

Division Directors/designee are responsible for verifying the accuracy of the Employee Recognition List maintained by HR for their employees.

All employees celebrating milestone anniversaries as defined in the Eligibility Section will receive a letter of appreciation from the Town Manager and Select Board. Employees celebrating 5, 10, 15, 20, 25, 30, 35, 40, and 45 years of service will be invited to an anniversary lunch or barbecue hosted by senior management and the Town Manager. Senior management will recognize employees retiring after 20 or more years of service during Town division-wide meetings or events closest to the date of their retirement.

Section 7: Employee Leaves

Section 7.1: SICK LEAVE

The Town provides regular full-time and regular part-time employees with paid sick leave in the event of illness or injury. Eligible employees shall be entitled to one (1) working day of sick leave per month (prorated based upon hours worked per week). At all times, employee sick leave accruals may not exceed one-hundred twenty (120) sick leave days.

At the beginning of each fiscal year (July 1) employees who reach the 120 days sick leave cap will have all excess days added to a retiree health savings (RHS) account on their behalf. An RHS plan provides employees with a head start on covering future health care costs after retirement, including gaps that Medicare does not cover. It is a tax-advantaged saving and investing plan sponsored by the Town and administered through MissionSquare Retirement. Please see Human Resources for more information about the retiree health savings (RHS) plan.

An eligible employee shall be entitled to sick leave pay when:

- A. The employee is unable to perform any of the duties of their position due to a personal illness or disabling injury. Employees should not report to work with a fever or flu-like symptoms.
- B. Leave is needed for personal medical or dental appointment, which cannot be scheduled during non-working hours.
- C. Leave is needed for family illness. In accordance with Maine Family Sick Leave, Title 26, §636, for family medical needs, employees may use 40 hours of accrued sick leave in any 12-month period to attend to the employee's child, spouse, domestic partner, or parent who is ill and requires care by the employee, unless otherwise covered by Family Medical Leave, which shall be used first. Family illness includes accompanying a family member to a doctor or dental appointment that cannot be scheduled during non-working hours.

From date of hire, employees may request to take available accrued sick time (consistent with paragraphs A-C above) as soon as the sick time is earned and posted to the attendance tracking system. Sick leave taken or requested must be in a minimum of one-half (1/2) hour increments. All employee absences must be reported to the Division Director or designee before the start of the workday, unless specific department policy requires otherwise. Notification from another employee or relative is not acceptable, except under emergency conditions. All employee absences due to illness must be reported through the Town's attendance tracking system or documented and recorded by the Division Director or designee.

Employees with unused vacation, sick or other accrued benefit time (personal days, floating holiday) balances cannot take unpaid sick time and are required to use other available benefit time.

Eligible employees who have accrued sick leave time to their credit and separate in "good standing" or retire from the department shall be paid the applicable percentage of their unused sick leave:

- 5 years of consecutive service = 25% of unused sick time, not to exceed 30 days.
- 10 years of consecutive service = 50% of unused sick time, not to exceed 60 days.
- 15 or more years of consecutive service = 75% of unused sick time, not to exceed 90 days.

"Good standing" shall mean that the employee must submit a written notice of their intention to terminate ten (10) workdays in advance of their last day of actual work.

In the event of an employee's death, the Town will pay out all accumulated sick leave benefits to the employee's designated beneficiary, subject to the maximum allowed.

Healthcare Provider's Note

If an absence due to an employee's illness or injury exceeds three (3) working days, the Division Director/designee or Town Manager may request that the employee provide a note from their healthcare provider before the employee returns to the workplace. The Division Director or designee shall promptly notify Human Resources of any absences from work that meet the definition of a serious medical condition pursuant to the Family Medical Leave Act (FMLA).

Fitness for Duty Requirement

Please refer to Chapter 4, Section 4.15, for fitness for duty requirement.

Suspected Sick Time Abuse

Employees demonstrating clear patterns of sick leave use that suggest abuse, such as frequent unplanned absences before or after the end of the employee's scheduled work week, may be subject to discipline. It is advised that the Division Director or designee discuss any suspected abuse of sick time with the employee as soon as possible.

Section 7.2: EARNED PAID LEAVE LAW (EPL)

The Town of Kennebunk is required to provide Earned Paid Leave as provided under Maine Law. As defined by 26 M.R.S.A. Section 1043(11), the State of Maine's Earned Paid Leave Law (EPL) requires employers with more than 10 employees to provide earned paid leave equal to or in excess of the Earned Paid Leave Law.

Covered Employees: Covered employees under the Earned Paid Leave Law include, but may not be limited to, full-time, part-time, temporary, on-call, call firefighters (under certain work events and unless excluded as outlined below) and per diem employees.

Exclusions: Employees determined to be seasonal employees by the Unemployment Insurance Commission will not accrue Earned Paid Leave during the seasonal period of June 15 – September 15. Employees, such as Election Workers and call firefighters, who are paid less than \$1,000 in a calendar year, are excluded from the Earned Paid Leave Law. Additionally, call firefighters who are only paid when they choose to respond to a fire or other emergency may also be excluded from the Earned Paid Leave Law.

Regular Full-time and Part-time Employees: The Town of Kennebunk currently provides a benefit greater than the EPL law for its regular full-time and part-time employees through its paid vacation, sick, personal, and floating holiday policies. To comply with Maine's Earned Paid Leave Law, regular full-time and part-time employees may utilize up to 40 hours of accrued benefit time during the calendar year for any type of time off as needed. Employees in this classification should refer to the Town's established paid leave policies and contact their Supervisor or Human Resources for clarification.

Accrual of Earned Paid Leave (EPL): All Covered Employees, other than regular full-time and regular part-time Employees as outlined above, are entitled to earn one hour of paid leave for every 40 hours worked, up to a maximum of 40 hours in one calendar year of employment. Accrual of this leave begins at the start of employment, but may only be used as set forth below. Unused EPL time will roll over and be available to the covered employee in their next year of employment. However, the maximum amount of EPL available to the covered employee will not exceed 40 hours in one calendar year.

Use of Earned Paid Leave (EPL): Once eligible employees, including probationary employees, have been employed for 120 calendar days, they may use earned paid leave in increments of a minimum of ½ hour (30 minutes) for any reason, such as illness, personal and family emergencies, personal time, and vacation. Per diem and on call employees, who sign up, accept shifts when available to work, or are called in to work, may utilize Earned Paid Leave if they need to arrive late or leave early for a shift or have signed up for a shift but are not able to make or work the shift for some unforeseen reason. Per diem and on call employees are not eligible to use EPL for days on which they have not been assigned to a shift.

Notice Requirements: Eligible employees must provide at least four weeks' prior notice to their Supervisor of their intent to use this leave, unless leave is for an emergency, illness, or other sudden necessity where advance notice may not be feasible, and then notice must be given as soon as practicable.

Restrictions of use of Earned Paid Leave (EPL): EPL may be denied or canceled by the Division Director during defined peak work periods where approval of such leave would inhibit the ability of the department to safely maintain adequate levels of service to the community.

Leave Accrual upon Separation: (1) Regular full-time and part-time employees: Any unused Earned Paid Leave will be paid to regular full-time and part-time employees at time of separation consistent with existing Town accrued benefit policies. (2) Temporary, on-call, and per diem employees: Employees of this classification who are covered employees and not otherwise excluded from eligibility to accrue EPL will not be paid for any unused and accrued Earned Paid Leave upon separation of employment. If a temporary, on-call, or per diem employee returns to work within 365 days of their last date of employment, that employee is entitled to any unused balance of EPL.

This policy may be amended due to future law changes. The Town will provide notification to the employee of any changes to this policy; however, employees are responsible for staying current with any changes in this law by referring to written Town communications, logging into the Employee Intranet, or by contacting their Division Director or Human Resources.

Section 7.3: SICK LEAVE BANK

The purpose of this program is to establish a procedure through which eligible employees may voluntarily donate a portion of their accrued sick balance to a bank to be used to assist another employee who has (1) suffered a serious non-work-related illness or injury, (2) exhausted their accrual balances due to an extended serious illness or disability and (3) has been out of work for at least 30 calendar days. Only employees who have contributed to the program will be eligible to withdraw days from the bank. Human Resources coordinates the Sick Leave Bank program, and the Finance Director is the program administrator.

All regular full-time and regular part-time employees are eligible to participate in this program.

- A. During the first 30 days of employment, employees shall have the option to contribute **one sick day** to the Sick Leave Bank and become a member. New employees must designate their intent to contribute or not contribute upon date of hire.
- B. To remain a member of the Sick Leave Bank, an employee shall contribute one sick day annually to the Sick Leave Bank on January 1. This will automatically occur once an employee has signed up. If the employee does not have a sick day on record to donate, the employee is required to contribute one personal day.
- C. If an employee chooses to opt out of participation in the Sick Leave Bank, the employee must provide written notification to Human Resources by December 1. If an employee opts out of participation in the

Sick Leave Bank, the employee is not allowed to re-join in the future.

- D. Sick Leave Bank days may not be used until an employee has depleted all accumulated sick leave, vacation time, holiday time, personal time and compensatory time. Members drawing upon the bank shall not be required to replenish the days withdrawn except as a regular contributing member of the Bank. Unused Sick Leave Bank days shall accrue and carry forward.
- E. In connection with a request to utilize the Sick Leave Bank, an employee must submit to Human Resources a physician's statement as evidence of a serious and extended non-work-related illness or injury. Human Resources will review the request and medical documentation and provide a written recommendation to the Town Manager and Finance Director along with the current days available in the Sick Leave Bank.
- F. Employees may apply for use of Sick Leave Bank days by submitting the request to Human Resources on the appropriate form available in Human Resources or on the Employee Intranet. Such requests may be made when the employee anticipates that leave accruals will be fully depleted. Failure to complete the request in a timely fashion may result in a delay in payment, pending completion of the process.
- G. Employees granted Sick Leave Bank days shall be entitled to draw up to a maximum of twenty (20) workdays, upon approval of their request by the Town Manager. The employee may re-apply to Human Resources for additional Sick Leave Bank days, if necessary. The total sick leave granted from the Sick Leave Bank to any one member shall not exceed 60 days for any one serious illness, recurring illness, or injury.
- H. The donations processed for a recipient each pay period shall be limited to the amount equal to that individual's regular gross earnings per pay period less any other insurance proceeds such as income protection. In no event shall donations from the bank exceed the recipient's regular scheduled base pay period earnings. All employee benefits and taxes will be deducted from the base gross earnings.
- I. Employees on a non-medical leave of absence status will not be able to receive any days from the bank.
- J. Probationary employees are not eligible to utilize the Sick Leave Bank until after successful completion of their probationary period.
- K. If, at any time during the year, the Sick Leave Bank is depleted, Human Resources may make a request to the Town Manager to require current sick bank participants to donate an additional individual day.

Provisions of the Sick Leave Bank are excluded from the grievance process by mutual consent of the parties.

Section 7.4: FAMILY MEDICAL LEAVE POLICIES

Three (3) distinct Family Medical Leave policies are taken into consideration when an employee needs family medical leave. Following are detailed descriptions of each type of leave. An employee may be eligible for more than one (1) of the leave policies. However, the total amount of job-protected leave, without an accommodation, that an employee is eligible to receive is twelve (12) weeks in a twelve (12) month period.

Employees are encouraged to schedule an appointment with Human Resources prior to applying for family medical leave to review policies and required paperwork.

A. MAINE PAID FAMILY MEDICAL LEAVE (PFML): Effective 2026

Maine Paid Family Medical Leave (Maine PFML) is provided consistent with State of Maine law. Beginning in 2026, Maine PFML entitles eligible employees to take paid job protected leave for specified family, medical, military, and safe leave reasons. The State of Maine and/or their designee will be administering this leave, and for purposes of this policy, the State of Maine shall be named the Administrator. Maine PFML runs concurrently with both the unpaid federal Family Medical Leave Act (FMLA) and unpaid Maine Family Medical Leave (Maine FML), where applicable. When returning from PFML, employees employed by the Town for at least 120 consecutive calendar years are entitled to be restored to the same position they held before the leave was taken.

According to the State of Maine website (Maine.gov), medical leave checks are scheduled to be paid sometime in 2026. Funding for the program, through payroll withholdings, begins on January 1, 2025. Please refer to the Maine Department of Labor's website (Maine.gov/paidleave) for more information.

Payroll Deduction

The Town agrees to comply with the Maine Paid Family Medical Leave Act, including but not limited to remitting payment for premiums to the State as required by law. Premiums will be deducted from the employee's pay beginning with the first pay date after January 1, 2025, unless covered under a Collective Bargaining Agreement (CBA) in effect since 10/25/23 and not expired since. Premiums shall be split evenly between the Employer (Town) and Employee. For years 2025-2027, the State has set the total premium contribution to 1% of an employee's wages and the premium rate of 0.5 percent shall be deducted from an employee's wages with the Town contributing 0.5 percent.

Eligible Employees

All employees are eligible to request leave. Once all forms and information are submitted to the State (Administrator) shall determine eligibility.

To receive benefits, a covered employee must:

1. Be a covered employee as defined by the State.
2. Have earned wages paid in the State at least six (6) times the state average weekly wage during the first four (4) of the last five (5) completed calendar quarters immediately preceding the first day of an individual's benefit year. For the purposes of these calculations, the state average weekly wage is that which was published effective on the July 1 immediately preceding the date of application for benefits or the state of the leave, whichever is earlier.
3. Submit an application for benefits no more than sixty (60) days before the anticipated start date of family leave and medical leave and no more than 90 days after the start date of family leave and medical leave.
4. Be employed as of the date of application for benefits if applying in advance of leave, or be employed as of the date of leave beginning if applying retroactively for leave.
5. Have not been declared ineligible by the State.
6. Satisfy one of the qualifying reasons under the PFML law.

Reasons for Leave

An eligible employee shall be entitled to twelve (12) weeks of paid job protected leave during a twelve (12) month period for one or more of the following reasons:

- Family leave: To care for family with serious health condition or to bond with a new child. A serious health condition, means an illness, injury, impairment, pregnancy, recovery from childbirth or physical, mental or psychological condition that involved inpatient care in a hospital, hospice or residential medical care center or continuing treatment by a health care provider.
- Medical leave: To care for one's own serious medical needs.

- Safe leave: to stay safe or to help a family member stay safe after abuse or violence.
- Military leave: For emergencies related to a family member's impending military deployment.

Notice

Employees generally must provide reasonable advanced notice (30 days) to the Town of the employee's intent to use leave. When the need for leave is unforeseeable, employees must provide notice as soon as possible and practical under the circumstances. If the employee is incapacitated, notice may be provided by a family member or health care provider on behalf of the employee. The employee's notice to the Town shall include the following information and must be in writing, which can include a standard form located on the Employee Intranet or by contacting Human Resources, letter, email, or text message:

1. The reason for the leave being requested;
2. The type of leave needed (continuous, reduced schedule, or intermittent leave);
3. Actual or anticipated timing and duration of leave;
4. Any other relevant information regarding employee's need to take leave.

If the Town acquires knowledge that a leave may be for a PFML-qualifying reason, the Town can encourage the employee to file a claim. The Administrator will notify employees whether leave is designated as PFML leave and the amount of leave that will be deducted from the employee's PFML entitlement.

Calculation of Leave

Eligible employees can use up to twelve (12) weeks of leave during any twelve (12) month period. The Administrator will use a rolling twelve (12) month period, measured backward, from the date an employee uses any PFML. Each time an employee uses leave, the Administrator computes the amount of leave the employee has taken under this policy, subtracts it from the twelve (12) weeks, and the balance remaining is the amount the employee is entitled to take at that time. For example, if the employee has taken five (5) weeks of leave in the past twelve (12) months, they could take an additional seven (7) weeks under this policy. The Administrator (State of Maine or designee) will keep track of the 12-week period for purposes of PFML.

Maintenance of Benefits

An employee shall be entitled to maintain group health insurance coverage on the same basis as if they had continued to work. To maintain uninterrupted coverage, the employee will be required to continue paying their share of insurance premium payments. If the employee is receiving concurrent sick, vacation, or compensatory time, the premium may be deducted from the employee's paycheck, as is normally the practice. If an employee chooses not to utilize accrued time off (sick, vacation, comp time, etc), the employee will be required to pay for their share of benefits through a payment arrangement with the Finance/Payroll Department.

Sick, vacation, personal days, floating holiday, and holidays will not be earned or accrue beyond the twelve (12) week leave period, unless otherwise required by law, consistent with the Employer's paid leave policies. However, the use of family or medical leave will not be considered a break in service when vesting or eligibility to participate in benefit programs is being determined. Seniority of position is not affected.

B. FAMILY MEDICAL LEAVE ACT (FMLA)

Family Medical Leave is governed by the requirements of Maine's Family Medical Leave law and the Federal Family Medical Leave Act, as they may apply. The Human Resources Department manages the Family Medical Leave process. However, it is the Division Director or designee's responsibility to notify Human Resources of potential family medical leave requests and to assist Human Resources in the coordination of the process.

Employee Eligibility Requirements for Federal Family Medical Leave

1. Employed at least 12 months (this does not have to be consecutive) and,
2. worked at least 1,250 hours during the twelve (12) months preceding the start of the leave.
3. If an employee does not qualify for leave under the Maine and/or Federal FMLA, the employee may submit a written request to the Town Manager for Extended Sick Leave or Unpaid Leave of Absence.

Basic Leave Entitlement

In accordance with the Federal Family and Medical Leave Act, effective August 5, 1993, and subsequent revisions (see the US Department of Labor FMLA website at <https://www.dol.gov/agencies/whd/fmla> for details) the Town of Kennebunk will grant job protected unpaid family and medical leave to eligible employees for up to twelve (12) weeks per twelve (12) month period unless additional time is provided in the regulation, for any one or more of the qualifying events as defined and active in the law at the time of the request. Those events include:

- The birth of a child, and in order to care for such child or the placement of a child with the employee for adoption or foster care (leave taken for this reason must be taken within the 12-month period following the child's birth or placement with the employee); or
- In order to care for an immediate family member (spouse, child, or parent) of the employee if such immediate family member has a serious health condition; or
- The employee's own serious health condition that makes the employee unable to perform the functions of their position.

Upon completion of the leave, employees will be returned either to the same position as before or to an equivalent position at the same rate of compensation.

Measurement Period

The Town utilizes the “**rolling**” method, known also as the “look-back” method, to measure an employee’s Federal Family Medical Leave entitlement. Human Resources “looks back” over the last 12 months, adds up all the **FMLA** time the employee has used during the previous 12 months, and subtracts that total from the employee's 12-week leave allotment.

Notice Requirement

- A. An employee is required to give thirty (30) days notice in the event of a foreseeable leave to their Division Director and Human Resources. A "Request for Family Medical Leave" form must be completed by the employee and returned to Human Resources.
- B. In unexpected or unforeseeable situations, an employee must provide as much notice as is possible, usually verbal notice within one or two business days of when the need for leave becomes known, followed by a completed "Request for Family Medical Leave" form as soon as reasonably possible, but no longer than seven (7) days from verbal notification.
- C. If an employee fails to give thirty (30) days’ notice for a foreseeable leave with no reasonable excuse for the delay, the leave will be denied until thirty (30) days after the employee provides notice.

Coordination with Workers’ Compensation and Sick Leave

Eligible employees, who are out on Workers’ Compensation or sick leave for more than seven (7) days, will automatically be placed on FMLA.

Definitions

Terms used for FMLA are as set by the regulation. Special note should be made to the following definitions:

12 Month Period – means a rolling 12-month period measured backward from the date the leave is taken and continuous with each additional leave day taken.

Spouses Working for the Same Employer – If both parties work for the Town of Kennebunk, their total leave in any 12-month period may be limited to an aggregate of 12 weeks if the leave is taken for either a birth, placement for adoption or foster care of a child, or to care for a sick parent.

Child – means a child either under 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee's child is one for whom the employee has actual day-to-day responsibility for care and includes a biological, adopted, foster, stepchild or child of a person standing in loco parentis (day-to-day care responsibilities or financial support).

Serious Health Condition – A condition requiring physician's care as defined under the current regulation at the time of the leave request. A doctor's certificate will be required.

Medical Certification

- A. For leave taken because of the employee's or a covered family member's serious health condition, the employee must submit a completed "Physician or Practitioner Certification" form and return the certification to the Human Resource Director at the Town Manager's Office. Medical certification must be provided by the employee within fifteen (15) days after requested, or as soon as is reasonably possible.
- B. The Town of Kennebunk may require a second or third opinion (at its own expense), periodic reports on the employee's status and intent to return to work, and a fitness-for-duty report to return to work.
- C. A doctor's release is required for return to work from a leave for treatment of the employee's own serious health condition.

All documentation related to the employee or family member's medical condition will be held in strict confidence as outlined in the HIPPA regulations.

Intermittent or Reduced Leave

- A. An employee may take leave intermittently (a few days or a few hours at a time) or request a reduced leave schedule to care for an immediate family member with a serious health condition or because of a serious health condition of the employee when "medically necessary."
 - i. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule.
 - ii. An employee on intermittent family medical is required to notify the supervisor or Human Resources each time intermittent leave is utilized to ensure proper tracking and documentation.
 - iii. The employee may be required to transfer temporarily to a position with equivalent pay and benefits that better accommodates recurring periods of leave when the leave is planned based on scheduled medical treatment.
- B. With prior approval, an employee may take leave intermittently or on a reduced leave schedule to care for a newborn or for the placement for adoption or foster care of a child.
- C. For regular part-time employees, the family and medical leave entitlement is calculated on a pro rata basis to equal 12 weeks of leave. A weekly average of the hours worked over the twelve (12) weeks prior to the beginning of the leave will be used for calculating the employee's normal work schedule.

Substitution of Paid Leave and Other Paid Time

Family medical leave is unpaid. However, it is the Town's policy that employees are required to utilize their earned and accrued benefit time during this period as follows:

- A. An employee will be required to use accrued sick leave and compensatory time for unpaid time under

family medical leave taken for any reason.

- B. An employee may request (but is not required) to use vacation time, personal days, floating holiday, banked holiday time (if applicable) when sick leave and compensatory time have been exhausted. Please contact Human Resources for a request form.
- C. Accrued leaves (sick leave, vacation time, personal days, floating holiday, banked holiday time (if applicable) and compensatory time) must be used concurrently and employees are required to use a full week of accrued leave.
- D. When an employee has used all accrued paid time (as described in A and B above) and has not returned to work, the employee will be granted unpaid leave so that the total of paid and unpaid leave provided equals 12 weeks.

Effect on Benefits

- A. An employee granted leave under this policy will continue to be covered under the Town of Kennebunk's health insurance, life insurance, dental and vision, and income protection disability plan under the same conditions as coverage would have been provided if continuously employed during the leave period.
- B. During unpaid Family Medical Leave, Town retirement contributions will cease. For MainePERS employees, the Town will notify MainePERS of the unpaid FML period, including when the employee returns to work. Any unpaid FML period may affect the employee's years of service calculation towards MainePERS. Employees are encouraged to contact MainePERS for guidance.
- C. An employee's benefit contributions will be deducted from the employee's paycheck while the employee is utilizing sick or any other form of paid leave.
- D. Employees are expected to pay their normal benefit contributions through payroll deduction. Human Resources will coordinate a payment plan with the employee when the employee returns to work after unpaid family medical leave. All repayments of employee benefit deductions must be made through payroll deduction. Employees have double the time of their leave to pay back their portion of employee benefits. For example, if an employee was out on approved unpaid FML for eight (8) weeks, upon return to work, the employee will have sixteen (16) weeks to repay the Town. Employee contribution amounts are subject to changes in benefit premiums that occur while the employee is on leave.
- E. If the employee fails to return from unpaid family medical leave for reasons other than (1) the continuation of a serious health condition of the employee or a covered family member, or (2) circumstances beyond the employee's control (certification required within thirty (30) days of failure to return for either reason), the Town of Kennebunk may seek reimbursement from the employee for the portion of the premiums paid by the Town of Kennebunk on behalf of the employee during the period of leave.
- F. Employees are not entitled to benefit accruals during periods of unpaid leave. Benefit time does not accrue during an unpaid leave period in which the employee does not receive a paycheck.
- G. Employees are not entitled to holiday pay during periods of unpaid leave.

Job Protection

- A. If the employee returns to work within twelve (12) weeks following family medical leave, the employee will be reinstated to their former position or an equivalent position with equivalent pay, benefits, status, and authority.
- B. The employee's restoration rights are the same as they would have been had the employee not been on leave. If the employee's position would have been eliminated or the employee would have been terminated but for the leave, the employee would not have the right to be reinstated upon return from leave.
- C. If the employee fails to return within twelve (12) weeks following family medical leave and has not received approval for extended family medical leave or extended medical leave as a reasonable accommodation, the Town Manager shall have the authority to terminate the employee. If the employee's same or similar position is not available, the employee may be terminated.

Family Medical Leave Forms to be submitted by the employee may include:

- FMLA Employee Request Form
- Certification of Health Care Provider for Employee's Serious Health Condition (Form WH-380-E)
- Certification of Health Care Provider for Family Member's Serious Health Condition (Form WH-380-F)
- Pay Election and Authorization Form
- Fitness for Duty to Return From Leave

C.: MAINE FAMILY MEDICAL LEAVE ACT (MFMLA)

If not eligible for Federal Family Medical Leave (FML), an employee may qualify for Maine Family Medical Leave (MFML). To be eligible under MFML, an employee is required to have worked for the Town for 12 consecutive months. Under the Maine Family Medical Leave Act, employees are (1) eligible for 10 work weeks of unpaid FML (2) during a two year period (3) for the employee's serious health condition, the birth or adoption of a child, including a domestic partner's child, the serious health condition of a child or grandchild, domestic partner's child and grandchild, domestic partner or spouse, sibling, or the death of the employee's spouse, domestic partner, parent, sibling, or child who is a covered service member who dies while on active duty.

Requests for family medical leave will be analyzed under both Maine and Federal FMLA.

Section 7.5: PAID PARENTAL LEAVE

Purpose/Objective

The Town of Kennebunk will provide up to four weeks of paid parental leave to employees following the birth of an employee's child or the placement of a child with an employee in connection with adoption or foster care. Paid parental leave is a Town-paid benefit. Employees eligible and approved for paid parental leave are not required to utilize accrued benefit time, i.e. sick, vacation, comp time and personal days. The purpose of paid parental leave is to enable the employee to care for and bond with a newborn or a newly adopted or newly placed child. This policy will run concurrently with Family and Medical Leave Act (FMLA) leave, as applicable. This policy will be in effect for births, adoptions or placements of foster children occurring on or after May 1, 2023.

Eligibility

Eligible employees must meet the following criteria:

- Employed with the Town of Kennebunk for at least 12 months (the 12 months do not need to be consecutive).
- Worked at least 1,250 hours during the 12 consecutive months immediately preceding the date the leave would begin.
- A full- or part-time, regular employee (temporary, per diem, seasonal employees and interns are not eligible for this benefit).

In addition, eligible employees must meet one of the following criteria:

- Given birth to a child.
- Is the spouse or partner of an individual who has given birth to a child.
- Adopted a child or been placed with a foster child (in either case, the child must be age 17 or younger). The adoption of a new spouse's child is excluded from this policy.

Amount, Time Frame and Duration of Paid Parental Leave

- Eligible employees will receive a maximum of four calendar weeks of paid parental leave per birth, adoption or placement of a child/children. The fact that a multiple birth, adoption or placement occurs (e.g., the birth

of twins or adoption of siblings) does not increase the four week total amount of paid parental leave granted for that event. In addition, in no case will an employee receive more than four weeks of paid parental leave in a rolling 12-month period, regardless of whether more than one birth, adoption or foster care placement event occurs within that 12-month time frame.

- Each week of paid parental leave is compensated at 100 percent of the employee's regular, straight-time weekly pay. Paid parental leave will be paid on regularly scheduled pay dates.
- Approved paid parental leave may be taken at any time during the 3 month (12 week) period immediately following the birth, adoption or placement of a child with the employee. Paid parental leave may not be used or extended beyond this 3 month (12 week) period.
- In the event of an employee who has given birth, the four weeks of paid parental leave will commence at the conclusion of any short-term disability leave/benefit provided to the employee, such as income protection benefits, for the employee's own medical recovery following childbirth.
- Employees must take paid parental leave in one continuous period of leave and must use all paid parental leave during the 3 month (12 weeks) time frame indicated above. Any unused paid parental leave will be forfeited at the end of the 3 month (12 weeks) time frame.
- Upon termination of the employee's employment with the Town, the employee will not be paid for any unused paid parental leave for which the employee is eligible.

Coordination with Other Policies

- Paid parental leave taken under this policy will run concurrently with leave under the FMLA. Therefore, any leave taken under this policy that falls under the definition of circumstances qualifying for leave due to the birth or placement of a child due to adoption or foster care, the leave will be counted toward the 12 weeks of available FMLA leave per a 12-month period. All other requirements and provisions under the FMLA will apply. In no case will the total amount of leave—whether paid or unpaid—granted to the employee under the FMLA exceed 12 weeks during the 12-month FMLA period. Please refer to the Family and Medical Leave Policy for further guidance on the FMLA.
- After the paid parental leave (and any income protection/short-term disability leave for employees giving birth) is exhausted, the balance of FMLA leave (if applicable) may be compensated through employees' accrued sick, vacation and personal time. Upon exhaustion of accrued sick, vacation and personal time, any remaining leave will be unpaid leave. Please refer to the Family and Medical Leave Policy for further guidance on the FMLA.
- The Town will maintain all benefits for employees during the paid parental leave period just as if they were taking any other company paid leave such as paid vacation leave or paid sick leave.
- If a Town holiday occurs while the employee is on paid parental leave, such day will be charged to holiday pay; however, such holiday pay will not extend the total paid parental leave entitlement.
- An employee who takes paid parental leave that does not qualify for FMLA leave will be afforded the same level of job protection for the period of time that the employee is on paid parental leave as if the employee was on FMLA-qualifying leave.

Requests for Paid Parental Leave

- The employee will provide notice of the request for leave to their supervisor and Human Resources at least 30 days prior to the proposed date of the leave (or if the leave was not foreseeable, as soon as possible). The employee must complete the necessary HR forms and provide all documentation as required by the HR department to substantiate the request.
- As is the case with all Town policies, the Town has the exclusive right to interpret this policy.

Section 7.6: MILITARY FAMILY LEAVE

Qualifying Exigency Leave:

Eligible employees whose spouse, son, daughter or parent is on covered active duty or call to covered active duty status may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

Military Caregiver Leave:

Eligible employees are allowed to take up to 26 weeks of leave to care for a covered service member during a single 12-month period measured forward from the date leave begins. A covered service member is:

- A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness*; or
- A veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes Family Medical Leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness*.

**The FML definition of “serious injury or illness” for current service members and veterans differs from the FML definition of “serious health condition”.*

The employee is required to utilize sick and compensatory time during military family leave.

Section 7.7: SAFE LEAVE FOR VICTIMS OF DOMESTIC VIOLENCE

In accordance with Maine Paid Family Medical Leave law, t an employee shall be entitled to twelve (12) weeks of safe paid leave during a twelve (12) month period if a victim of domestic violence, domestic assault, sexual assault or stalking, and needs the time to: (1) prepare for or attend court proceedings, (2) receive medical treatment or attend to medical treatment for a victim who is the employee’s child, parent, or spouse, or (3) obtain necessary services to remedy a crisis caused by domestic violence, sexual assault, or stalking.

The leave must be needed because the employee or the employee’s child, parent, or spouse is a victim of violence, assault, sexual assaults under Title 17-A, Chapter 11, stalking or any act that would support an order for protection under Title 91-A, Chapter 101.

Employees must request the leave and notify Human Resources as soon as practicable. The State of Maine or designee shall determine eligibility for safe paid leave. Please refer to Maine Paid Family Leave policy in the Employee Handbook for more information.

If an employee’s leave is approved, the employee will have the option of utilizing accrued benefit time (sick, vacation, compensatory time, personal days, floating holiday) for the seven (7) day period before benefits are in effect and to make up the difference between the employee’s base weekly pay and the PFML benefit. Employees will not be discriminated against for taking or asking for leave.

Section 7.8: EXTENDED SICK LEAVE

A regular full-time and regular part-time employee may be granted Extended Sick Leave for their own serious

medical condition by the Town Manager. Requests for Extended Sick Leave will be evaluated on a case-by-case basis and will be considered under the following provisions:

- A. The employee provides to Human Resources, no later than three weeks prior to the conclusion of the employee's 12 weeks of Family Medical Leave, satisfactory medical certification from their personal physician that an extension of sick leave is necessary, including duration of incapacity.
- B. Employees who have been notified that they do not qualify for leave under the Maine FMLA or FMLA and have requested Extended Sick Leave will also be asked to provide medical certification from a health care provider that provides an estimate of the duration of incapacity.
- C. The employee will be required to utilize all available benefit leaves, including sick, compensatory, vacation, personal days, floating holiday, and banked holiday time (if applicable) during all periods of extended sick leave.
- D. The employee will not accrue benefit time during any portion of unpaid extended sick leave, nor will the employee be eligible for holiday pay during extended sick leave.

Section 7.9: UNPAID LEAVE OF ABSENCE

A regular full-time or regular part-time employee may be granted a leave of absence without pay by the Town Manager on recommendation of the Division Director, with such leave not to exceed one year in length. Such leave shall only be granted when it appears, because of the past record of the employee or because of the purpose for which the leave is granted, to be in the Town's best interest to grant the leave.

- A. Prior to receiving the leave of absence, the employee must first utilize all accrued benefits they are entitled. If the employee is a member of the Sick Leave Bank, an employee may request to access the bank once all of their accrued time is used. See Section 7.3 for more information on the Sick Leave Bank.
- B. During an unpaid leave of absence, employees are responsible for paying 100% of the cost of their employee benefits, and the Town discontinues its contribution towards an employee's retirement account. After 90 days of an unpaid leave of absence, the Town shall cease making employer contributions to any employee benefit plan. Group health, dental, and vision insurance may remain in effect if the employee elects COBRA for continuation of insurance coverage. The employee is responsible for the total cost for continuation of health and dental insurance coverage through COBRA. Employee benefits commences once the employee has returned to work.
- C. The granting of the leave shall protect the employee's existing continuous service for the leave period but shall not count as service time for Maine Public Employees Retirement.
- D. Employees may not perform any work while on an unpaid leave of absence. This includes use of company email and work-related calls.
- E. Employees requesting an unpaid leave of absence must submit a written request to Human Resources along with appropriate medical certification from a health care provider that includes the duration of leave needed. Such requests are reviewed on a case-by-case basis.
- F. While on an unpaid leave of absence, employees do not accrue benefit time, nor will they receive pay for

municipal holidays. If and when they return to work, accruals and holiday pay will begin again.

- G. An employee is considered to have voluntarily resigned if, while on a leave of absence, the employee (1) accepts other employment which interferes with their Town job, (2) fails to return to work at a specified time and has not been granted an extension, (3) exceeds the amount of time allowed for the type of leave unless an extension of leave has been made in writing before the normal return date and has been approved in writing by the Town Manager, or (4) fails to submit required documentation within acceptable and established timeline.

Section 7.10: ABSENT WITHOUT LEAVE

An employee absent from work for five (5) consecutive days without approved leave shall be absent without leave. The employee shall be considered terminated after written notice, by the Town Manager, to the employee (or the employee's last known address).

Section 7.11: LIFE THREATENING ILLNESS

In the event an employee submits a physician's certification to the Town Manager that the employee has a life threatening illness and is expected to result in premature death, the Town Manager may make an exception to the existing sick leave and vacation sections of the Employee Handbook and pay the employee's entire accrual record to the employee regardless of years of service to the Town.

Section 7.12: MILITARY LEAVE

Reserve Service: In accordance with state and federal law, all employees will be granted time off from work for annual training or field duty obligations. For regular part-time and full-time employees, the Town will pay the difference (if any) between service pay, and the employee's regular pay, provided that the employee on military leave furnishes their Division Director with an official statement by military authorities giving the employee's rank and pay. In addition, the employee may choose to use accrued and available vacation time, personal days, floating holiday, and compensatory time while on military leave. In that case, the Town will not pay the difference between service pay and regular pay. The employee will be responsible for continuing to pay for their contribution towards employee benefits during the annual training or field duty period, if applicable.

Active Service: In the event that an employee, who is a member of a National Guard or Military Reserve Unit, is called to active duty because of a national, state, or local emergency, the Town will pay the employee's regular wages for the first week of such duty. If the active duty is for a period of more than ten (10) calendar days, the employee will be granted a military leave of absence without pay under the provisions of the Town's unpaid leave of absence policy. Per Maine law, the Town shall continue to provide health benefits at no cost to the employee for the first 30 days of military duty. After 30 days, the employee may elect healthcare coverage through COBRA at their cost. Upon return from active duty, the Town shall reinstate the employee to full benefits. Reemployment at the Town will be in accordance with provisions of the Uniformed Service Employment and Reemployment Act of 1994, as amended and all other applicable Federal and State statutes.

For more detailed information about your employee benefits and the reemployment process, please contact Human Resources as soon as possible.

Section 7.13: JURY DUTY

Employees will notify the Town as soon as possible when called to serve on jury duty. It is expected that an employee will report for work before and after court sessions whenever possible. When released from jury duty early, the employee shall call their supervisor who will instruct the employee whether or not to report to work. The Town shall pay the difference between the employee's regular pay and the jurors' pay upon presentation of the official statement of jury pay received as long as the jury duty occurs during a scheduled workday. Time paid for jury service shall not be counted as time worked for purposes of overtime computation.

Section 7.14: BEREAVEMENT LEAVE

Up to five (5) working days with pay shall be granted to regular full-time and regular part-time employees in the event of the death of a spouse, partner, child, step-child, parent, step parent, grandparent, grandchild, sibling, sibling-in-law, child-in-law, and parent-in-law.

Up to five (5) working days with pay shall be granted to regular full-time and regular part-time employees in the event of an employee's pregnancy loss or that of an employee's spouse or partner.

Up to two (2) working days with pay shall be granted to regular full-time and regular part-time employees in the event of the death of an aunt/uncle/pibling, niece/nephew/nibling or cousin.

Up to two (2) working days with pay shall be granted to regular full-time and regular part-time employees in the event of a child or step-child's pregnancy loss.

Bereavement Leave is generally taken in a single continuous period; however, exceptions can be made on a case-by-case basis, such as when funerals are delayed to a later date. Any exceptions must be approved by the Division Director or designee.

With prior approval of the Town Manager, employees who need more than the allotted bereavement days of paid leave may take additional days of sick leave. Special consideration may be made by the Town Manager when an exceptional or unusual circumstance is a factor in any of the situations described above.

Chapter 8: Disciplinary Action and Grievance Procedure

Section 8.1: DISCIPLINE & CORRECTIVE ACTION

When, in the Division Director or designee's judgment, employee performance, attitude, work habits, or personal conduct at any time falls below acceptable standards, the Division Director or designee shall inform the employee promptly and specifically of such lapses and give counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. Supervisors may use additional training and performance improvement plans (PIPs) to assist the employee to improve work performance. Supervisors are encouraged to seek assistance from Human Resources for guidance on performance improvement plans.

The Town generally follows the principles of progressive discipline. However, the Division Director or designee has the right to determine the appropriate level of discipline, taking into consideration the particular incident and any local, state, and federal laws, rules and/or guidelines. The Division Director or designee shall consult Human Resources before issuing any disciplinary action above verbal warning. Unpaid suspension, demotion, and dismissal shall be carried out in consultation with the Human Resources Director. The Town Manager shall handle all

discipline of Division Directors.

Disciplinary action may consist of the following:

- A. Verbal Warning – A verbal reprimand may be necessary to correct an employee’s work performance, minor infractions of departmental rules or regulations, or minor instances of inappropriate employee conduct. The Division Director or designee shall document the verbal warning and forward the documentation to Human Resources for retention in the employee’s personnel file.
- B. Written Warning – An employee may be given a written warning that will state the nature of the unsatisfactory performance and what improvement is expected. The Division Director or designee shall review the incident with the employee, have the employee sign the written warning, and forward the written warning to Human Resources for retention in the employee’s personnel file. The employee’s signature does not acknowledge agreement with the reprimand but only that the employee has reviewed it. The employee may, within five (5) workdays, prepare a written response, which will be attached to the written reprimand placed in the personnel file.
- C. Unpaid Suspension – An employee may be suspended without paid when the employee’s work performance or misconduct warrants. A record of the suspension shall be included in the employee’s personnel file.
- D. Demotion – An employee may be demoted when the employee’s work performance or misconduct warrants.
- E. Dismissal – An employee may be dismissed when the employee’s work performance or misconduct warrants.

All discipline, including verbal warnings, must be documented appropriately. All final disciplinary notices shall specify the action taken, the reason(s) for the disciplinary action, and the extent and duration of the penalty. This notice shall be given to the employee at the time of the disciplinary action. Final written decisions of discipline are considered public records.

The Division Director is responsible for providing Human Resources with a copy of all final disciplinary notices for retention in the employee’s personnel file. Employees shall be asked, but not required, to acknowledge receipt of the discipline with their signature.

Predetermination Hearing

Employees shall be provided with advance notice of the contemplated actions of unpaid suspension, demotion, or dismissal to provide the employee with an opportunity to respond to the type of discipline being imposed. Depending on the circumstances, a Division Director may recommend to the Human Resources Director that the employee be placed on paid administrative leave pending decision. The Human Resources Director shall coordinate the predetermination hearing.

An employee who feels that he/she/they have been treated unfairly shall have access to the grievance procedure in the following section.

Section 8.2: GRIEVANCE PROCEDURE FOR NON-UNION PERSONNEL

The term “grievance” means any dispute between an employee and management concerning the effect, interpretation, application or claim of breach of violation of Town of Kennebunk Employment Policies and Procedures. Excluded

from consideration of grievance are those matters pertaining to: hiring, promotion of personnel, and compensation adjustments, except that regular employees may appeal performance evaluations.

Every reasonable effort should be made for an agreement between the individual and their Division Director or designee. If the grievance is not resolved after an informal discussion with either of these persons, the grievance should be brought forward in writing and appealed according to the following procedure:

- A. The aggrieved may, within five (5) working days, file a written grievance to the Division Director or designee. The Division Director or designee shall make a careful inquiry of the facts and circumstances of the grievance, determine the merits of the complaint, and provide a written reply within five (5) working days.
- B. If the individual is dissatisfied with the Division Director or designee's written decision, the aggrieved may, within five (5) working days, make a formal written appeal to the Town Manager. The Town Manager will, upon receipt of the written appeal, return a formal written decision within five (5) working days. In all cases, the decision of the Town Manager will be final and binding.
- C. For Division Directors, the level of appeal is the Select Board.

Chapter 9: Non-Discrimination and Harassment

Section 9.1: WORKPLACE BULLYING

The purpose of this policy is to communicate to all employees, including Division Directors and supervisors, that the Town of Kennebunk will not in any instance tolerate bullying behavior. Employees found in violation of this policy will be disciplined, up to and including termination.

Definition

The Town of Kennebunk defines bullying as repeated inappropriate behavior, either direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment. The Town of Kennebunk will not tolerate bullying behavior and expects all employees to be treated with the dignity and respect.

Examples

Bullying may be intentional or unintentional. However, when an allegation of bullying is made, the intention of the alleged bully is irrelevant and will not be given consideration during disciplinary decisions. It is the effect of the behavior on the individual that is important. The Town of Kennebunk considers the following types of behavior examples of bullying:

- *Verbal bullying*: Slandering, ridiculing or maligning a person or the person's family; persistent name calling that is hurtful, insulting or humiliating; using a person as butt of jokes; abusive and offensive remarks
- *Physical bullying*: Pushing, shoving, kicking, poking, tripping, assault or threat of physical assault, damage to a person's work area or property
- *Gesture bullying*: Non-verbal threatening gestures; glances that can convey threatening messages
- *Exclusion*: Socially or physically excluding or disregarding a person in work-related activities

In addition, the following examples may constitute or contribute to evidence of bullying in the workplace:

- Persistent singling out of one person

- Shouting or raising voice at an individual in public or in private
- Using verbal comments or obscene gestures
- Not allowing the person to speak or express oneself (i.e., ignoring or interrupting)
- Personal insults and use of offensive nicknames
- Public humiliation in any form
- Constant criticism on matters unrelated or minimally related to the person's job performance or description
- Ignoring or interrupting an individual at meetings
- Public reprimands
- Spreading rumors and gossip regarding individuals
- Encouraging others to disregard a Division Director or designee's instructions

Bullying is **NOT**:

- Expressing differences of opinions;
- Offering constructive feedback, guidance, or advice about work-related behavior; or
- Reasonable action taken by an employer or supervisor relating to the management and direction of employees or place of employment (i.e. managing an employee's performance, taking reasonable disciplinary actions, assigning work).

Complaint Process

The Town of Kennebunk is committed to preventing bullying prohibited by this policy through education and dissemination of information as well as employee accountability. Such bullying may be reported by any employee, regardless of whether that employee is the recipient of the bullying, a witness or otherwise becomes aware of bullying prohibited by this policy.

Internal complaints may be filed by contacting any of the following individuals:

- Immediate Division Director or designee or any Division Director or designee
- Human Resources Director
- Town Manager

The Town takes complaints of bullying very seriously and will not tolerate bullying behavior. Every effort will be made to resolve complaints at the lowest level possible. If an investigation is warranted, it will be conducted promptly and with as much confidentiality as possible, respecting the rights of all parties involved. All employees are required to cooperate fully in any investigation of alleged bullying behavior.

Bullying behavior is subject to the employee discipline process, up to and including termination.

Section 9.2: NON-DISCRIMINATION, HARASSMENT & SEXUAL HARASSMENT

Objective

The Town of Kennebunk is committed to a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits unlawful discriminatory practices, including harassment. Therefore, the Town expects that all relationships among persons in the work environment will be business-like and free of explicit bias, prejudice, and harassment. Intimidation or harassment based on race, religion, age, sex, physical or mental disability, sexual orientation (including gender identity and expression), national origin, genetic pre-disposition, color, political affiliation, whistleblower activity, or any other status protected by law is a violation of law and Town policy. Because such harassment seriously undermines the integrity of the work place and adversely affects

employee morale, it is unacceptable and will not be tolerated. In addition, it is considered grounds for disciplinary action up to and including discharge.

Definitions of Sexual Harassment

- *Sexual harassment*: Unwelcome sexual conduct that is a term or condition of employment. Unwelcome sexual conduct is sexual harassment when submission to such conduct is expressly or implicitly made a term or condition of employment. Title VII of the Civil Rights Act of 1964 recognizes two types of harassment: (1) quid pro quo and (2) hostile work environment.
- *Quid pro quo*: Harassment that occurs when submission or rejection of such conduct is used as the basis for employment decisions affecting an individual, *such as promotions in exchange for sexual favors, or an unfavorable change of duties in response to rejected sexual advances.*
- *Hostile Work Environment*: Unwelcome sexual conduct, which unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment, also constitutes illegal sexual harassment. Conduct, which is not sexual in nature, may still create a sexually hostile work environment if it is based on the victim's gender. Such conduct may include excluding or isolating employees, tampering with belongings or equipment, or physical or verbal abuse based on gender.

Definitions of Harassment

- Verbal, written, or physical conduct that denigrates or shows hostility or aversion toward an individual because of their race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, marital status, citizenship, genetic information, or any other characteristic protected by law that:
- Has the purpose or effect of creating an intimidating, hostile or offensive work environment;
- Has the purpose or effect of unreasonably interfering with an individual's work performance, or;
- Otherwise adversely affects an individual's employment opportunities.

Examples of Harassment

The following are examples of harassment related to race, religion, age, sex, physical or mental disability, sexual orientation (including gender identity and expression), national origin, genetic pre-disposition, color, political affiliation, whistleblower activity, or any other status protected by law, which may be a series of incidents or a single occurrence:

- Unwelcome sexual advances, gestures, comments, or contact;
- Threats;
- Offensive jokes;
- Subjecting employees to ridicule, slurs, or derogatory actions;
- Basing employment decisions or practices on submission to such harassment;
- Refusal to cooperate with employees in performing work assignments;
- Inequitable disciplinary actions and work assignments;
- Comments about a person's looks, personal inquiries, sexual jokes;
- Use of derogatory sexual stereotypes, uttering sexually suggestive sounds;
- Writing of sexual jokes;
- Use of Town computer equipment to send, receive, and/or download material of sexual nature;
- Nonverbal sexual behavior, such as looking someone up and down, staring or leering at someone's body;
- Deliberate blocking of a person's path;
- Displaying sexual visuals, making sexual gestures;
- Pinching, grabbing, sexual assault or any physical contact of a sexual nature.

As a matter of Town policy, *any* behavior of a sexual nature in the workplace is unprofessional regardless of whether it constitutes illegal sexual harassment. Similarly, any conduct that degrades, ridicules or otherwise draws unwanted attention to any employee or other person having dealings with the Town on the basis of race, religion, age, sex, physical or mental disability, sexual orientation (including gender identity and expression), national origin, genetic pre-disposition, color, political affiliation, whistleblower activity, or any other status protected by law is considered unprofessional regardless of whether it constitutes unlawful harassment. Each employee is personally responsible for compliance with this policy.

Supervisor Responsibilities

As part of Division Director or designee responsibilities, Division Directors and supervisors are required to actively prevent or stop inappropriate, unprofessional conduct in the workplace regardless of whether the conduct rises to the level of illegal harassment. If the Division Director or supervisor become aware of any such conduct occurring through personal observation or information from another party, they must consult with the Human Resources Director or designee and take immediate and appropriate corrective action, including discipline, to end the conduct. Corrective action is required regardless of whether a complaint is made or the conduct appears to be unwelcome. Even if the person providing information requests that no action be taken, the Division Director or designee must contact the Human Resources Director. Division Directors or supervisor who fail to fulfill their obligations under this policy will be subject to disciplinary action, up to and including termination.

Training

It is the policy of the Town to provide harassment training to new hires within 30 days of hire. In addition, new supervisors will be trained on their responsibilities within 30 days of hire. It will be the practice of the Town to provide on-line or in person training on harassment to its employees as practicable. In compliance with Maine law, the Town will provide annual written notification to all employees regarding harassment in the workplace.

Applicability

This policy applies to:

- Co-workers and Division Directors or supervisors
- Town volunteers, appointed and elected officials.
- Outside parties having dealings with the Town (i.e., citizens, vendors, contractors)
- Interactions between individuals of the same sex as well as of the opposite sex
- Interactions in the workplace during work hours as well as outside activities related to the workplace (i.e., parties, trips, conferences)

Section 9.3: COMPLAINT PROCESS

The Town of Kennebunk is committed to preventing sexual and other forms of harassment prohibited by this policy through education and dissemination of information as well as employee accountability. Such harassment may be reported by any employee, regardless of whether that employee is the recipient of the harassment, a witness or otherwise becomes aware of harassment prohibited by this policy.

Internal complaints, either in writing or verbally, may be filed by contacting any of the following individuals:

- Immediate Division Director or designee
- Human Resources Director
- Town Manager

Supervisors shall bring any complaints to the attention of their Division Director immediately, who in turn shall report it to the Human Resources Director. The Town of Kennebunk encourages the prompt reporting of complaints

or concerns so that rapid and constructive action can be taken before relationships become irreparably strained. Although there is no fixed reporting period, early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of harassment.

An employee's report will be investigated promptly by a person assigned by the Human Resources Director or Town Manager. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge. All employees are expected to cooperate in any investigation of harassment. The Town of Kennebunk will maintain confidentiality throughout the investigatory process to the extent possible and consistent with adequate investigation and appropriate corrective action.

Misconduct constituting harassment, discrimination, or retaliation will be dealt with appropriately. Response action may include, for example, training, referral to counseling, or disciplinary action, up to and including termination.

False and malicious complaints of harassment, discrimination, or retaliation (as opposed to complaints that, even if erroneous, are made in good faith) may be the subject of appropriate disciplinary action.

Employees also have the right to file a complaint with the Maine Human Rights Commission. For more information, contact:

- Maine Human Rights Commission: 207/624-6050, 207/624-6064 (TTY)
- Address: 31 State House Station, Augusta, ME 04333-0051

Section 9.4: ANTI-RETALIATION

Any form of retaliatory action or threat or suggestion of retaliation by either employees, Division Directors, or supervisors against any person filing a complaint under this policy or assisting in an investigation is a violation of Town policy. Any discriminatory action against any individual because the individual has opposed a practice that would be a violation of the Maine Human Rights Act, Title VII, the Americans with Disabilities Act, or the Age Discrimination in Employment Act or because the individual has made a charge, testified or assisted in any investigation, proceeding or hearing under the Maine Human Rights Act, Title VII, the Americans with Disabilities Act or the Age Discrimination in Employment Act is illegal. A complainant is protected from retaliation regardless of the merits of the original complaint. Retaliation should be reported in the same manner as described in the Complaint Process (Section 9.3) for complaints of harassment and will be promptly investigated. Such retaliatory conduct will be grounds for disciplinary action.

Chapter 10: Miscellaneous

Section 10.1: VIDEO DISPLAY TERMINAL TRAINING

Maine State law requires that the Town of Kennebunk explain or describe the proper use of computer terminals and the protective measures that operators of VDTs should take to avoid or minimize symptoms (i.e., carpal tunnel syndrome) that may result from extended or improper use of these terminals.

This law requires that VDT users receive annual training. Included in the training is instruction on proper use of equipment (chairs, desks, terminal holders) and lighting. All new employees must receive the training within one month of their starting date as a VDT operator.

A VDT user can request, through the Human Resources Department, that a professional trained in the proper use of

VDTs review the employee's work station and recommend any improvements. The Town of Kennebunk will make every effort to ensure that each VDT user has the proper equipment to perform their job safely and effectively.

Section 10.2: INFECTIOUS DISEASE & PANDEMIC

The intent of the Town's Infectious Disease and Pandemic Policy is to provide guidance to employees on how the Town intends to respond to specific operational and human resource issues in the event of an outbreak of an infectious disease or pandemic flu.

It is the policy of the Town to assure, to the extent possible, a safe and healthy work environment. It is also the policy of the Town to ensure full compliance with state, federal, and local requirements dealing with infectious diseases including but not limited to: AIDS, Chickenpox, Hepatitis A, Hepatitis B, Impetigo, Measles, Mumps, Pertussis, and Parasitic Infestations and a pandemic flu outbreak caused by the avian flu, H1N1, COVID-19, or any other type of highly contagious flus.

Any employee or volunteer who could or does come into contact with bodily fluids, while performing their job as a Town employee or volunteer, should immediately contact their Division Director or immediate supervisor. Employees should refer to the Town's Exposure Control Plan (See Appendix B) for specific procedures and information pertaining to infectious diseases, contaminated sharps, and accidental needle sticks.

Non-Discrimination Statement

The Town will not discriminate against employees and/or prospective employees with infectious diseases or illness caused by a pandemic flu who are otherwise qualified to perform their job functions with reasonable accommodation. Employees with infectious diseases or illness caused by a pandemic flu will be treated under existing policies, state, federal, and local requirements, and collective bargaining agreements.

Procedures

- A. It is the responsibility of employees to stay informed of current and updated policies relative to infectious diseases and pandemic flus.
- B. It is the responsibility of employees to take all reasonable precautions to protect themselves, co-workers, and the public from infectious diseases and pandemic flus.
- C. Where allowed by law, the Town retains the right to test employees for infectious diseases and pandemic flus and mandate vaccines.
- D. The Town must maintain confidentiality regarding an employee's health status and does not have a duty to inform other individuals or organizations unless required by law.
- E. Upon medical confirmation of an infectious disease or illness, the affected employee shall notify the Town's Division Director or designee immediately. The Division Director or designee is responsible for notifying Human Resources.
- F. All requests for accommodation, due to an employee's inability to carry out job duties, must be directed to the Human Resources Director or designee.
- G. The Town will provide appropriate educational opportunities and current informational material on infectious disease and pandemic flu issues, including prevention, protection, control measures such as Personal Protective Equipment (PPE), and treatment practices.
- H. *Ill employees*: It is expected that employees who do not feel well, have contracted the flu, or have been exposed to family members or others, will stay home and seek medical attention as necessary and appropriate. Employees shall follow Town protocols and guidelines for reporting illnesses to their Division Director or immediate supervisor.

- I. *Facility Closures*: The Town Manager may decide that it is in the best interest of employees and the public to temporarily close facilities to the public and/or alter hours of operation to reduce the spread of an infectious disease. In these situations, the Town will continue providing essential services.
- J. *Telecommuting*: Due to State, Federal, or local quarantines or shelter in place and school and daycare closures, employees may need to request alternative work schedules such as telecommuting. Telework requests will be handled on a case-by-case basis. Any requests for temporary telecommuting should be submitted to Human Resources. Forms are available on the Employee Intranet or upon request at Human Resources.

Please see Appendix B for the Town's Infectious Disease and Exposure Control Policy.

Section 10.3: TOWN VEHICLES, EQUIPMENT & MATERIALS

All Town-owned equipment, vehicles, and materials are the property of the Town of Kennebunk. Employees are prohibited from using or allowing the use of any Town property for private or personal use or gain unless authorized by the Town Manager or their designee.

Driver Guidelines and Reporting Requirements

- A. Town vehicles are to be driven by authorized employees only, except in the case of repair testing by a mechanic. Employees must have a valid and current driver's license to operate a Town vehicle, or a personal vehicle with current auto insurance while on Town business.
- B. Employees are expected to drive in a safe and responsible manner and to maintain a good driving record. The Safety Committee is responsible for reviewing records, including accidents, moving violations, etc., to determine if an employee's driving record indicates a pattern of unsafe or irresponsible driving, and to bring this to the attention of the Town Manager for review of potential suspension or revocation of driving privileges.
- C. Any employee who has a driver's license revoked or suspended shall immediately notify the Division Director, but no later than 8:00 a.m. Eastern Standard Time the following business day, and **immediately discontinue operation of the Town vehicle**. Failure to do so may result in disciplinary action, including termination of employment. The Division Director shall notify Human Resources.
- D. All accidents in Town vehicles, regardless of severity, must be reported to the police and to the Division Director. Accidents are to be reported immediately (from the scene, during the same day, or as soon as practicable if immediate or same day reporting is not possible). The Division Director or designee shall ensure that the Town's Accident Investigation Policy is followed and shall forward completed forms to Human Resources within 24 hours of the accident. Accidents involving the employee's personal injury must be reported to the Division Director. The Division Director or designee shall notify Human Resources. Human Resources is responsible for filing a first report of injury with the Town's workers compensation insurance carrier. Accidents in personal vehicles while on Town business **must** follow these same accident procedures. Failing to stop after an accident and/or failure to report an accident may result in disciplinary action, up to and including termination of employment.
- E. Drivers must report all ticket violations received during the operation of a Town vehicle, or while driving a personal vehicle for Town business, within 24 hours to their Division Director.

- F. Motor Vehicle Records will be obtained on all drivers prior to employment and will be reviewed annually. A driving record that fails to meet the criteria stated in this policy or is considered to be in violation of the intent of this policy by the Safety Committee, will result in a loss of the privilege of driving a Town vehicle until such time as the driver meets any required criteria.
- G. Criteria that may indicate an unacceptable record includes but is not limited to: Two or more moving violations or chargeable accidents within a year or any combination of accidents and moving violations. Chargeable means that the driver is determined to be the primary cause of the accident through speeding, inattention, etc. Contributing factors, such as weather or mechanical problems, will be taken into consideration.

Authorized Use of Town Vehicles

An employee's privilege to operate a vehicle on official business extends only if the driver operates the vehicle in a safe manner. Proper care in the operation of the assigned vehicle, including the use of seat belts, obeying the speed limit and rules of the road, shall always be exercised.

Town-owned vehicles shall be driven for official use and work purposes only. Non-Town personnel are not permitted in Town vehicles under any circumstance, unless expressly authorized by the immediate Division Director or Town Manager. Unauthorized use will result in disciplinary action.

Town Vehicles shall not be taken home overnight, except as follows:

- Employees may take a Town-owned vehicle home when attendance at an off-site meeting takes place prior to normal working hours, subject to the approval of the Town Manager or Division Director.
- Employees who are on-call on a 24-hour basis may be allowed to take a Town vehicle home so they can respond as soon as possible.
- With prior approval from the Town Manager, employees whose positions require that they be available during non-scheduled hours to respond to emergencies or for investigative purposes.

Driver Safety Rules

Driving on Town business and/or driving a Town vehicle while under the influence of intoxicants and other drugs (which could impair driving ability) is forbidden and is sufficient cause for discipline, up to and including termination of employment.

- No driver shall operate a Town vehicle when the ability to do so safely has been impaired by illness, fatigue, injury, or prescription medication.
- Drivers must abide by all applicable State driving laws.
- Drivers are responsible for the security of the vehicles assigned to them.

Section 10.4: REIMBURSEMENT OF EXPENSES

Employment Related Expenses

Employees are reimbursed for reasonable and necessary expenses incurred while carrying out pre-approved, official Town business. Such reimbursement shall be made in accordance with the current approved rates upon submission of a standard expense sheet, signed by the employee's immediate Division Director or designee. Such reimbursement does not apply to travel between the employee's home and Town office.

Employees traveling for Town business will be reimbursed for meals, lodging, and transportation upon return to work.

Travel Advance

An employee may receive a travel advance by:

- Submitting a written estimate to the Town's Finance Director within three weeks of departure; and
- Calculating regional per diem amounts for meals, lodging, and other travel expenses set by the Internal Revenue Service.

At the conclusion of travel, an employee who receives a travel advance is required to provide receipts to the Town documenting that the travel advance was properly utilized. Further, employees are required to return to the Town any excess travel advance funds the employee received that were not utilized during travel.

Reimbursement Procedure

Actual work-related expenses incurred away from the office or job site shall be reimbursed only when accompanied by a detailed receipt and when demonstrated to be necessary and incidental to the actual performance of work. There shall be no reimbursement for the following items:

- Sales Tax
- Alcoholic beverages, movies, admissions and personal incidental expenses that may be incurred while traveling for work-related purposes, but are not otherwise related to or necessary for the performance of work.

Parking Fees/Tolls

Reimbursement for parking fees and tolls must be accompanied by receipts. The Town will not reimburse employees for parking tickets and/or motor vehicle violations or infractions.

Mileage Reimbursement

Reimbursement for an employee's use of their personal vehicle for Town authorized business is paid at the prevailing rate indicated in the Internal Revenue's Annual Business Reimbursement Guidelines. The Town's Finance Director shall communicate the appropriate reimbursement rates to employees on an annual basis. The Town of Kennebunk shall reimburse employees for business travel at the lesser of: (a) mileage from home to destination; or (b) mileage from office to destination. Employees are responsible for submitting a record of the business mileage to their immediate supervisor who must review and approve the mileage worksheet and submit reimbursement request to the Finance Director or designee for final approval.

APPENDIX A

ALCOHOL AND CONTROLLED SUBSTANCES TESTING POLICY

Statement of Policy

The safety and well-being of our drivers, employees, and the public requires that our drivers perform their duties free from the effects of alcohol and/or drugs. A drug-free workplace is especially important to the transportation industry. Drivers who use or abuse alcohol and/or drugs is a hazard to the Town of Kennebunk, the public, other employees, and themselves.

To ensure safe transportation and provide for an efficient and drug-free workplace while complying with the Federal Motor Carrier Safety Regulations, the Town of Kennebunk has adopted this policy.

Program Administrator

The Town of Kennebunk, through its Town Manager, has designated the Human Resources Director as the Town's Alcohol/Drug Testing Program Administrator. In this function, the Human Resources Director will be responsible to answer any questions from the drivers, administrators, or the public in general.

The Program Administrator will handle information on all tests of covered drivers confidentially. The Program Administrator may provide such information as necessary to the supervisor to enable him/her/they to take proper disciplinary action as warranted. The Program Administrator may also release test information to the Substance Abuse Professional (SAP) to use to evaluate and recommend appropriate follow-up.

Drivers Subject to Testing

All drivers who must have a commercial driver's license to perform duties that are considered safety-sensitive will be subject to the alcohol and/or drug testing as outlined in this policy and required by Title 49 Code of Federal Regulations Part 382.

Driver Compliance with Regulation

All drivers subject to alcohol and drug testing must always be compliant with the regulations and this policy while in a working status for this company. This will include all time spent driving a commercial vehicle as well as time spent performing safety-sensitive functions or just before or just after performing safety-sensitive functions.

Safety-Sensitive Function means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she/they is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

1. All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer.
2. All time inspecting equipment as required by Part 392.7 and 392.8 of 49 C.F.R., and otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time.
3. All time spent at the driving controls of a commercial motor vehicle in operation.
4. All time, other than driving time, in or upon any commercial motor vehicle except time resting in a sleeper berth (a berth conforming to the requirements of Part 393.76 of 49 C.F.R.).
5. All time loading or unloading a commercial motor vehicle, supervising, or assisting in the loading or unloading, attending a commercial motor vehicle being loaded or unloaded, remaining in readiness to operate the commercial motor vehicle, or in giving or receiving receipts for shipments loaded or unloaded.

6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled commercial motor vehicle.

Substances Tested For (DOT 5-Panel Test and Alcohol) as specified in 49 CFR Part 40

The following substances will be tested for to determine their presence:

1. Alcohol
2. Amphetamines (Amphetamine and Methamphetamine)
3. Cocaine Metabolites
4. Marijuana Metabolites
5. MDA-Analogues (MDA and MDMA)
6. Opioids (Morphine, Codeine, 6-Acetylmorphine, Hydromorphone, Hydrocodone, Oxycodone, Oxycodone)
7. Phencyclidine (PCP)

Prohibited Conduct

During the time that drivers are performing safety-sensitive functions, they shall not:

1. Report to and/or remain on duty with an alcohol concentration of 0.04 or greater.
2. Possess any alcohol.
3. Use any alcohol.
4. Use any alcohol within four hours of going on duty.
5. Use any alcohol for eight hours after an accident that will require the driver to be tested for alcohol or until tested.
6. Refuse to submit to a required alcohol and/or controlled substances test.
7. Report to or remain on duty when using any controlled substance, except when under a physician's orders **AND** the physician has informed the driver that the use will not affect the safe operations of a commercial vehicle.
8. Report to or remain on duty if he/she/they has tested positive for controlled substance.

Tests Required

All drivers who are required to be tested for alcohol and/or controlled substance use or misuse will be tested under the following circumstances:

1. **Pre-employment or pre-use.** All applicants for jobs requiring a commercial driver's license and/or current employees transferring to a job that requires a commercial driver's license will be required to be tested for the use of controlled substances.
2. **Random.** All drivers are subject to random testing for alcohol and controlled substance at rates determined by the Federal Motor Carrier Safety Administrator. These random tests will be unannounced and will be spread throughout the calendar year. Except as provided in paragraphs (c) through (e) of Part 382.305, the minimum alcohol testing shall be ten (10) percent of the average number of driver positions. Except as provided in paragraphs (f) through (h) of Part 382.305, the minimum average percentage rate for random controlled substance testing shall be fifty (50) percent of the average number of driver positions. If the company has entered a consortium pool the 10 and 50 percent levels will apply to the entire pool of drivers in the consortium.
3. **Post-accident.** Drivers will be alcohol and controlled substance tested in **all** accidents involving a fatality. If the accident is one where one or more vehicles were towed from the scene of the accident, or involves somebody being injured to the degree that the injury must be treated immediately away from the scene of the accident, the driver must also be post-accident tested if the commercial vehicle driver receives a summons for a "moving traffic violation" as a result of the accident.

4. **Reasonable suspicion.** All drivers that exhibit signs and/or symptoms of alcohol and/or controlled substance use or misuse, which are observed by a trained company supervisor, while performing safety sensitive functions or just before or just after performing safety sensitive functions will be required to submit to an alcohol and/or controlled substance test.
5. **Return to duty.** A driver, who previously tested positive for alcohol and/or controlled substance, must submit to a return to duty alcohol and/or controlled substance test. The results of the test must be obtained by the motor carrier and be negative before the driver may be allowed to perform a safety sensitive function.
6. **Follow-up.** A driver who previously tested positive and has returned to duty must submit to at least six (6) alcohol and/or controlled substance tests during the first 12 months after returning to work. Follow-up tests will be unannounced and may continue for up to sixty (60) months after returning to work. Any follow-up tests will be at the direction of the Substance Abuse Professional.

Testing Procedures

The Town of Kennebunk has chosen **Northern Light Drug Testing Services** as the drug and alcohol program provider and Certified Third-Party Administrator. The collection site will be chosen by the Program Administrator.

Once a driver has been directed to submit to an alcohol and/or controlled substance test, he/she/they will proceed immediately to the testing area directed by the program administrator named in this policy. Drivers must comply with the lawful requests of the technician doing the alcohol and/or controlled substance test.

The selected driver will be required to provide a urine specimen for controlled substance testing and/or a breath or saliva sample for analysis of alcohol concentration.

The driver will be required to provide photo identification prior to testing. Privacy will be ensured at the facility by means of voiding in a private enclosure. A split sample will be procured and both samples will be sent to the lab.

Proper chain of custody procedures will be followed to ensure that the specimen submitted is indeed the specimen that belongs to the selected driver. The specimen will be sealed to prevent tampering during transport to the laboratory. Federal certified laboratories will be utilized for testing (drugs) and two separate methodologies will be performed to verify all specimens as positive prior to controlled substances reporting to the medical review office (MRO).

The MRO is a licensed physician that reviews all test results prior to reporting to the company. Should the specimen test positive, the MRO will contact the driver to discuss the test findings and afford the driver an opportunity to discuss their test results and any factors that could have attributed to the positive test. Should the driver question the test findings, the driver can request that the split sample be forwarded to another certified laboratory for re-analysis.

All test results are treated as confidential and no results will be released to outside parties without the drivers express consent or when required by law, rule or regulation or expressly authorized.

All testing for alcohol use or misuse will be conducted only by devices that have been approved by the National Highway Traffic Administration and conducted by trained Breath Alcohol Technicians (BATs) or trained Screening Test Technicians.

Requirement that Drivers Must Submit to Tests

All drivers who are required by Federal Motor Carrier Safety Regulations and this policy to be subjected to alcohol and/or controlled substances testing must fulfill that requirement when so directed by the Alcohol/Drug Testing Program Administrator or a trained supervisor. Failure to comply with the regulations or this policy will be grounds

for disciplinary action up to and including dismissal.

Refusal to Test

No driver shall refuse to submit to a post-accident alcohol or controlled substances test required under [§382.303](#), a random alcohol or controlled substances test required under [§382.305](#), a reasonable suspicion alcohol or controlled substances test required under [§382.307](#), or a follow-up alcohol or controlled substances test required under [§382.311](#). No employer shall permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions.

Refuse to submit (to an alcohol or controlled substances test) means that a driver:

1. Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee (including an owner-operator) to appear for a test when called by a C/TPA (see [§40.61\(a\)](#) of this title);
2. Fails to remain at the testing site until the testing process is complete. Provided, that an employee who leaves the testing site before the testing process commences (see [§40.63\(c\)](#) of this title) for a pre-employment test is not deemed to have refused to test;
3. Fails to provide a urine specimen for any drug test required by this part or DOT agency regulations. An employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences (see [§40.63\(c\)](#) of this title) for a pre-employment test is not deemed to have refused to test;
4. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the driver's provision of a specimen (see [§40.67\(l\)](#) and [40.69\(g\)](#) of this title);
5. Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure (see [§40.193\(d\)\(2\)](#) of this title);
6. Fails or declines to take a second test the employer or collector has directed the driver to take.
7. Fail to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under [§40.193\(d\)](#) of this title. In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment.
8. Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process); or
9. Is reported by the MRO as having a verified adulterated or substituted test result.

Disciplinary Action

Any driver who violates either the Federal Motor Carrier Safety Regulations or this policy may be subject to disciplinary action up to and including dismissal.

Any driver who has tested positive for either drugs or alcohol, has performed a prohibited act, or has refused to submit to a drug or alcohol test, will be removed from the safety sensitive position immediately, reported to the FMCSA Clearinghouse, and directed to a substance abuse professional (SAP). The substance abuse professional will:

- provide a comprehensive face-to-face assessment and clinical evaluation of the driver; and
- recommend a course of education and/or treatment with which the employee must demonstrate successful compliance prior to returning to a DOT safety sensitive function

Drivers who are found to have an alcohol concentration of 0.02 or greater, but less than 0.04, will be taken out-of-duty for a minimum of 24 hours. It is this company's policy that such time out-of-duty will be **without** pay.

FMCSA Clearinghouse

As of January 6, 2020, the FMCSA Commercial Driver’s License Drug and Alcohol Clearinghouse was established as a secure, online database for employers and authorized users to provide updated information about CDL and CLP drivers. Any CDL driver has the option to register to view their own Clearinghouse record electronically, or to provide electronic consent for a current or prospective employer to conduct a query or the driver’s DOT record. Drivers should be aware that the motor carrier/employer is required to run pre-employment and annual queries through the Clearinghouse, as well as to collect, maintain, and report certain information as required:

- A verified positive, adulterated, or substituted drug test result.
- An alcohol confirmation test with a concentration of 0.04 or higher.
- A refusal to submit to any test required by subpart C of this part.
- An employer's report of actual knowledge, as defined at §382.107:
- On duty alcohol use pursuant to §382.205;
- Pre-duty alcohol use pursuant to §382.207;
- Alcohol use following an accident pursuant to §382.209; and
- Controlled substance uses pursuant to §382.213;
- A substance abuse professional (SAP as defined in §40.3 of this title) report of the successful completion of the return-to-duty process.
- A negative return-to-duty test; and
- An employer's report of completion of follow-up testing.

Information

The Town of Kennebunk will provide each driver subject to the Federal Motor Carrier Safety Regulations a copy of this policy. In addition, the Town of Kennebunk will provide printed material which describes the effects of alcohol and/or controlled substance use or abuse on the individual’s health, work and personal life, as well as information on the signs and symptoms of an alcohol or controlled substances problem.

Acknowledgement

I certify that I have received a copy of the Town of Kennebunk’s policy, and written material concerning the effects of alcohol and controlled substance on an individual’s work and personal life, signs and symptoms of a drug or alcohol problem including a co-worker, and the methods to deal with a substance abuse problem.

Dated: _____

Driver’s Signature _____

APPENDIX B

INFECTIOUS DISEASE AND EXPOSURE CONTROL POLICY

The purpose is to establish the policy of the Town of Kennebunk for managing infectious disease issues as they relate to employees and/or prospective employees including but not limited to the following diseases: AIDS, Chickenpox, Hepatitis A, Hepatitis B, Impetigo, Measles, Mumps, Pertussis, and Parasitic Infestations. Any employee or volunteer who could or does come into contact with bodily fluids while performing their job as a Town employee or volunteer, should immediately reference their respective Department's Exposure Control Plan. Copies of the Exposure Control Plan are available in the Town Manager's office, as well as in the Police, Fire/Rescue, Public Works and Recreation Departments.

It is the policy of the Town to assure, to the extent possible, a safe and healthful work environment. It is also the policy of the Town to ensure full compliance with state, federal, and local requirements dealing with infectious diseases.

Town procedures shall comply with the Center for Disease Control recommendations for specific infectious diseases. These recommendations will be available through the employee's Division Director or designee.

It is the obligation of all Town employees to take all reasonable precautions to protect themselves, co-workers, and the public from infectious diseases.

The Town of Kennebunk shall make available to all employees and volunteers who have occupational exposure the Hepatitis B vaccination series and post exposure evaluation and follow-up. Please reference the respective department's Exposure Control Plan for detailed information on necessary procedure to follow.

Procedures

- The Town will not discriminate against employees and/or prospective employees with infectious diseases who are otherwise qualified to perform their job functions with reasonable accommodation. Employees with infectious diseases will be treated under existing policies, state, federal, and local requirements, and collective bargaining agreements.
- Where allowed by law, the Town retains the right to test employees for infectious diseases.
- The Town must maintain confidentiality regarding an employee's health status and does not have a duty to inform other individuals or organizations unless required by law.
- Upon medical confirmation of an infectious disease that may be a threat to the public health, the affected employee has the responsibility to notify the Town's Human Resources Director, and to carry out their assigned duties, if reasonable accommodations can be made.
- Upon notification by an employee that an infectious disease diagnosis has been confirmed and is a threat to the public health, the Human Resources Director will:
 - a. Secure, if possible, all appropriate releases for information from the employee and notify those individuals for whom those releases have been acquired.
 - b. Assist in the identification of reasonable accommodations to be made, if any.
 - c. Assist individual departments, if necessary, in complying with this policy.
- The Town will treat all occupational infectious disease injuries or illnesses according to state law.
- The Town will provide appropriate educational opportunities and current informational material on infectious disease issues, including prevention, protection, control measures, and treatment practices.
- Individual departments have the right to develop protocols regarding infectious disease control provided that those protocols conform to this policy.

- An employee cannot refuse to carry out their assigned duties when dealing with a co-worker or the public with an infectious disease unless that individual makes a threat of harm to the employee. Failure to adhere to this procedure will result in disciplinary action.

Accidental Needle Stick Procedure

Police, fire, and rescue personnel have the highest risk of exposure to needles and syringes. Exposure to a used, contaminated needle places an employee at risk for contracting an infectious disease. In the event of an accidental puncture with a contaminated needle, the procedure is as follows:

1. Wash the puncture site thoroughly with soap/disinfectant and water.
2. Report the incident to your Division Director or designee. Police, fire or rescue personnel must notify the medical facility receiving the patient of the incident.
3. Complete Incident and/or Workers' Compensation forms.
4. Establish your potential exposure risk to infectious diseases.
5. Notify your Division Director or designee to establish your: (1) tetanus status, (2) Hepatitis B status, and (3) HIV exposure.
6. Seek further medical attention if necessary.

Procedure for Exposure to HIV Infection

If a Town employee is exposed to the blood or bodily fluid of a known or highly suspected HIV infected person:

1. Wash the exposed areas thoroughly with soap and water. Clean any spills with a one (1)-part bleach to ten (10) parts water solution.
2. Report the incident to your Division Director or designee.
3. Complete the Incident and Workers' Compensation forms.
4. Notify your Division Director or designee as soon as possible to schedule an appointment for a voluntary blood test.

The blood test will be drawn within two weeks of the incident, six months later, and nine months later. The blood test is sent to the Maine Public Health Division in Augusta. Results are received approximately one week later. You will be notified of the test results.

If all three specimens are negative, you are considered not to be infected.

Counseling occurs with each visit or when requested and is also available to family members and co-workers. Emotional counseling is available through a counselor of the employee's choice and to be provided by the Town of Kennebunk.

Strict confidence will be maintained in all incidences unless appropriate medical and/or information releases have been obtained.

APPENDIX C

POLICY GOVERNING ACCESS TO PUBLIC RECORDS UNDER THE MAINE FREEDOM OF ACCESS ACT

Summary and Purpose

The Freedom of Access Act (FOAA) is a state statute (1 M.R.S.A Sections 401-412) intended to open the government of Maine by guaranteeing access to the “public records” and “public proceedings” of state and local government bodies and agencies. The purpose of this policy is to outline the procedures the Town follows to comply with state statute and support public access to public records in the possession of the Town.

Definitions

Terms used in this Policy Governing Access to Public records shall have the same meaning as in the Maine Freedom of Access Act.

“FOAA” means Freedom of Access Act.

“Requester” means person who submits a request for public records under the provisions of the FOAA

“Public Access Officer” means person designated to serve as the contact person for public records request.

Public Access Officer

The Public Access Officer is designated by the Town Manager. The Human Resources Director currently serves as the Town’s Public Access Officer. The Public Access Officer can be reached at the following address:

Human Resources Director
Town of Kennebunk
1 Summer Street
Kennebunk, ME 04043

OR by email: HR@kennebunkmaine.us

Requests for information may be submitted in writing, verbally over the phone, or in person. Written or oral requests submitted to Town Officials or Town employees other than to the Freedom of Access Officer will be referred to as soon as possible the Freedom of Access Officer for processing and response.

Timeline for Town Response to Request for Public Records

The Public Access Officer is responsible for:

- Ensuring that public record requests are acknowledged within five working days.
- Seeking clarification concerning which public record or public records are being requested.
- Notifying the requester of the reasons for any denial within five working days. NOTE: A requester whose FOA request has been denied has a right to appeal in accordance with the requirements of Maine law.
- Providing to the requester a good faith estimate of when the response to the request will be complete.
- Providing to the requester a good faith estimate of the fees associated with compiling and producing the documents.
- Compiling the information and providing the information to the requester. Information is provided in the following ways: (1) inspection of records at Town Offices during normal working hours, (2) photocopies, or (3) digital copies emailed to the requester.
- Invoicing the requester.

Fees

The Town shall assess any and all fees to the requestor allowable by the State of Maine Freedom of Access Act. Current fees are as follows:

- Staff time: \$25/hour after two hours of staff time at no charge.
- Photocopies: \$0.10/page.
- Prepayment may be required if estimated response costs exceed the amount defined by statute.

Training

As of October 18, 2021, the list of Town officials and employees required to complete Freedom of Access training includes:

- Municipal officers, clerks, treasurers, assessors and budget committee members of municipal governments
- Municipal managers or administrators
- Municipal Code Enforcement Officers
- Deputies for municipal clerks, treasurers, managers, or administrators, assessors, and code enforcement officers
- Municipal planning board members
- Public Access Officer

The training requirement must be completed no later than the 120th day after the date the official assumes the person's duties as an official or the person is designated as a public access officer. The training must be designed to be completed in less than 2 hours and include instruction in: (a) the general legal requirements regarding public records and public proceedings, (b) the procedures and requirements regarding complying with a request for a public record, and (c) the penalties and other consequences for failure to comply with the law. The Town Manager's Office and Human Resources will coordinate the training.

EMPLOYEE ACKNOWLEDGMENT

By signing below, I acknowledge that I have received a copy of the Town of Kennebunk's Personnel Policy/Employee Handbook. The handbook contains important information regarding employment with the Town, and I understand I should request clarification if I have questions.

Due to the information in the handbook being subject to change, I further understand that the Town of Kennebunk may revise the handbook in its sole discretion, at any time, with or without notice.

I also understand that this handbook is not intended to be a contract of employment.

Name: _____

Signature: _____

Date: _____

Regular full-time and regular part-time employees may view the handbook online via the Employee Intranet: <https://www.kennebunkmaine.us>. Navigate to *Departments – Human Resources – Employee Intranet*. Login credentials are required to access this page.

Digital and printed copies are available upon request to the Human Resources Department.