

# TOWN OF BURLINGTON

## **PERSONNEL RULES AND REGULATIONS**

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## **PART I ADMINISTRATION**

### **1.1 GENERAL PROVISIONS**

#### **1.1-1 Purpose and Authorization**

The purpose of these personnel regulations is to establish a system of personnel administration governing employment within the Town of Burlington which ensures that the recruitment, selection, and advancement of personnel shall be based on ability, knowledge, education, and skill under fair and open competition. The personnel system shall be administered without regard to race, color, religion, sex, national origin, political affiliation, age as defined by law, handicap, or other non-merit factors and with proper regard for privacy and employee rights.

The personnel bylaw and these regulations are adopted pursuant to the authority granted by Article LXXXIX of the Constitution of the Commonwealth and General Law, Chapter 41, Section 108A and 108C.

#### **1.1.2 Application**

All Town Departments and positions shall be subject to the provisions of these regulations excluding *elected officials* and employees of the school department and elected officials. These regulations shall apply to all other employees except as otherwise provided by collective bargaining agreement. Subject to the approval of the Town Administrator, however, any departmental policy, which establishes standards of performance, conduct or action shall continue to be applicable.

No vendor, independent contractor or consultant employed from time to time to provide limited services shall be entitled to any rights or benefits provided under these personnel rules and regulations.

#### **1.1-3 Rules of Interpretation**

- (a) These regulations are intended to be in accordance with all applicable state and federal laws. In the event that town policies are inconsistent with the applicable state or federal law, the applicable law shall apply.
- (b) Words using the singular number may extend and be applied to several persons; words using the masculine gender shall include the feminine gender.

#### **1.1.4 Definitions**

The following definitions shall apply:

- (a) "Town" shall mean the Town of Burlington;
- (b) "Full-time employee" shall mean an employee scheduled to work not less than thirty-five (35) hours per week for fifty-two (52) weeks per year minus legal holidays and authorized vacation leave, sick leave, bereavement leave, jury duty or other authorized leaves of absence;
- (c) "Permanent part-time employees" shall mean an employee scheduled to work less than a full-time employee provided, however, only part-time employees working twenty (20) or more hours a week, shall be eligible for longevity, insurance, retirement system participation, holiday pay, vacation leave, sick leave, bereavement leave, or other authorized leave of absence, and optional participation

in life, dental and disability insurance programs offered by the Town and such leaves shall be prorated in accordance with the number of an employee works on an average weekly basis;

- (d) “Qualified part-time employee” shall mean any former full-time or permanent part-time employee whose hours of employment have been reduced to less than 20 hours per week. Such qualified part-time employees shall be entitled to receive prorated benefits and paid leaves.
- (e) “Eligible part-time employee” which shall be defined as follows: “all permanent part-time and all qualified part-time employees”.
- (f) “Contract employee” shall mean an employee in the town service holding a non-permanent appointment of a transitory nature. A contract employee shall not be entitled to any benefits provided by the town.
- (g) “Appointing authority” shall mean the Town Administrator and any board or official authorized by Chapter 549 of the Acts of 1978 or otherwise to appoint employees.
- (h) “Department head” shall mean the officer in charge of a department’s operations and activities.

## **1.2 ADMINISTRATION OF REGULATIONS**

### **1.2-1 Town Administrator as the Personnel Director**

The Town Administrator, or a designee of the Town Administrator, shall be the personnel director. The Town Administrator shall prepare personnel rules and regulations in accordance with Section 5 of the personnel by-law.

### **1.2-2 General Responsibilities of the Town Administrator**

The Town Administrator shall be responsible for the efficient administration of the town’s personnel system and shall be responsible for:

- (a) Development of personnel policies and regulations.
- (b) Development of the classification and compensation plans.
- (c) Enforcement of provisions of personnel policies and regulations and may nullify any personnel action which does not comply with provisions of these regulations.
- (d) Assisting department heads and supervisors with disciplinary issues.
- (e) Monitoring the effectiveness of personnel practices and policies,
- (f) Such other powers, duties and responsibilities as provided by these regulations.

### **1.2-3 Administrative Orders/Interpretation**

The Town Administrator may issue written administrative orders, which interpret these personnel regulations or more fully explain any regulation. Any such administrative order shall have the force of these personnel regulations. Each administrative order shall be directed to department heads, numbered in sequence and a copy maintained in a file in the office of the Town Administrator. Copies of administrative orders shall be provided to the Board of Selectmen.

### **1.3 PERSONNEL RECORDS**

#### **1.3-1 Policy**

The Town Administrator shall be responsible for establishing and maintaining a centralized personnel record keeping system. The personnel record-keeping system shall contain such records as may be required by law and as necessary for effective personnel management. All employees and department heads shall comply with and assist in furnishing records, reports, and information as may be requested by the Town Administrator.

The Town Administrator may establish written guidelines authorizing department heads to maintain specific or duplicate personnel records.

The centralized records shall be maintained in a secure, fire protected location.

#### **1.3-2 Coverage**

All employees.

#### **1.3-3 Contents of Records.**

The Town Administrator shall maintain an individual personnel file for each employee, which may include, but not be limited to, the following:

- (a) the employment application or resumé;
- (b) a report of all personnel actions reflecting the original appointment, promotion, reassignment, transfer, separation, or layoff;
- (c) a history of employment and correspondence directly related to the employee's past employment record, reclassification or change in the employee's rate of pay or position title, commendations, records of disciplinary action, training records; and,
- (d) results of any performance appraisal, and other records that may be pertinent to the employee's employment records.

Any other records required to be maintained separately by law shall be maintained in accordance with such laws.

#### **1.3-4 Confidentiality and Access to Records**

Personnel records shall be considered confidential and access to records shall, unless circumstances dictate otherwise, be limited to the Town Administrator, persons authorized by the Town Administrator to administer the personnel system, and department heads. Any employee may have access to review their personnel file upon the submission of a written request to the Town Administrator. The employee's review of their employment record shall be in the presence of the Town Administrator, or persons authorized by the Town Administrator to administer the personnel system during normal working hours.

If there is a disagreement with any information contained in a personnel record, removal or correction of such information may be mutually agreed upon by the employer and the employee. If an agreement is not reached, the employee may submit a written statement explaining the employee's position, which shall thereupon be contained therein and shall become a part of such employee's personnel record.



### 1.3-5 Centralization of Record Keeping System

Records required to be maintained under this regulation shall be maintained in the office of the Town Administrator, unless otherwise determined by the Town Administrator. These centralized records shall be deemed to be the official depository of personnel records.

### 1.3-6 Release of Records

Unless written authorization is received from an employee, except to verify employment, no information concerning an employee shall be released. Town officials shall have access to personnel records in order to conduct town business.

### 1.3-7 Forms and Reports

The Town Administrator shall adopt standardized administrative forms and practices to insure maintenance of proper records. The Town Administrator may request department heads to prepare special reports as deemed necessary.

## **PART II PRE-EMPLOYMENT/EMPLOYMENT**

### **2.1 Recruitment and Appointment**

#### 2.1-1 Recruitment Policy

The town is an equal opportunity/affirmative action employer. Procedures relating to the recruitment and selection of employees shall be in accordance with the "Affirmative Action Plan for Employment" adopted by the town on October 1, 1986. The recruitment of employees shall also be in accordance with any appropriate Civil Service rules and regulations.

The Town shall comply with all federal and state laws concerning the employment of persons with disabilities and to act in accordance with regulations and guidance issued by the Equal Employment Opportunity Commission (EEOC). Furthermore, the Town shall not discriminate against qualified individuals with disabilities in regard to application procedures, hiring, advancement, discharge, compensation, training or other terms, conditions and privileges of employment.

The Town will reasonably accommodate qualified individuals with a disability so that they can perform the essential functions of a job unless doing so causes a direct threat to these individuals or others in the workplace and the threat cannot be eliminated by reasonable accommodation and/or if the accommodation creates an undue hardship.

#### 2.1-2 Coverage

All employees

#### 2.1-3 Eligibility

All qualified persons shall be eligible for employment with the town, subject to any statutory requirements or limitations.

## 2.1-4 Recruitment

The appointing authorities shall be responsible for the selection of personnel. The qualifications, classification and salary range for positions shall be established in accordance with the classification and compensation plans adopted by the town. All recruitment efforts shall be performed through the Town's Human Resources Department.

Recruitment of all positions shall be in accordance with the town's affirmative action program for employment.

The Town Administrator shall have the discretion to use all appropriate measures of recruiting personnel, including, but not limited to: use of employment agencies; employee referrals; use of trade and other professional journals.

(a) Notice of Vacancies

Department heads shall, upon the identification of a vacancy or on the authorization of a new position, notify Human Resources to prepare a job vacancy notice. Department heads shall within three (3) business days of any resignation notify the Town Administrator of any such resignation. The job vacancy notice shall be based upon the existing job description and include: the job title, major duties of the position, qualifications, salary and wages, hours of work, reporting relationships, a proposed closing date for applications, and application instructions.

The Town Administrator or a designee of the Town Administrator shall review and approve all job vacancy notices prior to commencement of recruitment activities.

(b) Posting

Advertising should be adequate to ensure that a sufficient number of qualified applicants apply for available vacancies. However, in all circumstances, department heads and the Human Resources Director shall ensure that notices of vacant positions be posted for five (5) business days in prominent work locations.

(c) Advertisement of Job Vacancy

If the vacancy is not filled internally via posting, job vacancy notices shall be placed in a local newspaper or other medium appropriate to recruit qualified candidates at least ten days prior to the closing date for applications. Job advertisements shall be accomplished in accordance with the town's affirmative action plan for employment.

(d) Applications

All candidates applying for employment in the town shall complete an official employment application form and return the form to the Human Resources office or appropriate appointing authority prior to the end of the working day of the closing date specified for the position announcement. Each applicant shall sign the form, and the truth of all statements shall be certified by the applicant's signature.

Applications received from former employees shall be subject to the same standards as set forth in this section. However, the former employee's work performance when previously employed by the town and circumstances surrounding the person's termination of previous employment with the town shall be considered in the review of applications.

(e) Examinations

The Town Administrator or other appointing authority may require an examination as one part of the selection process. Examinations may be written, oral, practical, physical or any combination thereof and shall be relevant to the requirements of the position. The Town Administrator may negotiate altered or expanded Civil Service examination procedures with the Commonwealth's Department of Personnel Administration.

(f) References & Background Investigations

A candidate's former employers, supervisors, and other references shall be contacted as part of the selection process. To the extent permitted by law, all reference checks and investigations shall be completed prior to the offer of employment. All offers of employment are contingent upon satisfactory results of a thorough background check, to include professional reference, verification of prior employment, education/licenses/certifications, and criminal history (i.e. CORI/SORI). When driving is an essential requirement of the position, the Town will conduct a Motor Vehicle Record check. The Town Administrator may request that the Police Department conduct a Background Investigation of any prospective employment candidate being hired to a Department Head's position. Credit checks will be run for positions that involve management of funds and/or handling of cash.

(g) Application Records

The application and related documents submitted shall be maintained by the Town Administrator in the employee's personnel file. The Town Administrator shall maintain application records for the period required by law. The Town Administrator, to the extent possible, shall maintain the confidentiality of all applications.

2.1-5 Appointments

All appointments shall be made in writing by the Town Administrator or other appointing authority. The written notice of appointment shall include the salary, the starting date, any unique or unusual conditions of employment and appropriate additional information. Copies of the letter of appointment shall be provided to the appropriate department head.

2.1-6 Pre-Placement Medical Examination

All persons selected for labor service employment with the town, after receipt of notice of appointment and prior to the starting date of employment, shall undergo a medical examination relating to essential functions of the position. All other positions shall be reviewed by the Human Resources Director to determine whether a pre-placement physical is needed. The examination shall be at the expense of the town by a physician or medical institution selected or approved by the Town Administrator.

The examining physician shall advise as to whether or not, in the opinion of the physician, the applicant is fit to perform the essential functions of the duties of the position for which the appointment has been made. If deemed unfit to perform the essential functions of the position for which the appointment has been made, the Town Administrator or other appointing authority shall withdraw the offer of employment.

2.1-7 Failure to Report

An applicant who accepts an appointment and fails to report to work on the date set by the Town Administrator or other appointing authority, shall, unless excused, be deemed to have declined the appointment and the offer of employment shall be withdrawn.

## **2.2 ORIENTATION/PROBATIONARY PERIOD**

### **2.2-1 Orientation/Probationary Policy**

Performance of all new and promoted employees must meet acceptable work standards. The probationary period shall be utilized to help new and promoted employees achieve an effective performance level and to insure that new employees are aware of their duties and responsibilities. Department heads shall inform new employees of their rights, responsibilities, duties and obligations.

### **2.2-2 Coverage**

All full-time and part-time employees.

### **2.2-3 Orientation**

#### **(a) Office of Town Administrator**

The Town Administrator or a designee of the Town Administrator shall conduct periodic orientation sessions for new employees, for the purpose of providing new employees with information on benefits, rights and obligations as an employee of the town.

#### **(b) Department Heads**

Department heads shall provide on-site training and orientation regarding specific rules, regulations, policies and procedures of the employee's assigned department including the safety policies and procedures.

### **2.2-4 Probationary Period**

Unless otherwise provided by law, all newly appointed and promoted employees shall be required to successfully complete a probationary period to begin immediately upon the employee's starting date or promotion date and to continue for a six-month period. The probationary period shall be used by the Town Administrator and department heads to observe and evaluate the employee's attitude, conduct and work habits. Upon expiration of the probationary period, the Town Administrator or other appointing authority, through applicable department heads, shall notify the probationary employee in writing that:

- (a) The employee's performance meets satisfactory standards and the individual will be retained in the position; or
- (b) The employee's performance, due to extenuating circumstances, requires additional observation and that the probationary period will be extended an additional period of time not to exceed three months; or
- (c) The employee's removal will occur.

At any time during the probationary period, the Town Administrator or any appointing authority may remove a probationary employee if it is revealed that the employee intentionally falsified information relating to application for employment, was unable or unwilling to perform the required duties, or displayed conduct, habits or dependability which did not merit continuing the employee in the position. The Town Administrator or other appointing authority shall notify the probationary employee in writing of termination and the effective date of the action. The employee may not appeal the removal.

The Town Administrator recognizes the need to receive input from a board or commission when reviewing the performance of a probationary employee, if such employee provides staff support to a board or commission.

#### 2.2-5 Department Head Responsibilities

Department heads during the probationary period of any employee shall at periodic intervals discuss work performance with the probationary employee. The department heads shall be responsible for documenting these discussions, and copies of such documentation shall be submitted to the Town Administrator to be filed in the employee's personnel file.

### 2.3 **TRANSFER, PROMOTION, DEMOTION, REINSTATEMENT & RESIGNATION**

#### 2.3-1 Coverage

All employees

#### 2.3-2 Transfers

Transfer of an employee from one position to another without significant change in level of responsibility may be affected if the employee meets the qualification requirements for the particular position.

#### 2.3-3 Promotion

- (a) Filling of Vacancies - Vacancies in position above the lowest rank in any department in the town service shall be filled as far as practical by the promotion of employees in the town service, provided, however, the Town Administrator or other appointing authority shall continue to have the right to recruit and appoint employees as deemed appropriate. Promotion in every case must involve a definite increase in duties and responsibilities and shall not be made merely for the purpose of affecting an increase in compensation.
- (b) Notification - A department head shall advise employees within the department, by posting, of the existence of vacancies within the department.
- (c) Probationary Period - Unless otherwise provided by law, all promotions shall be subject to a probationary period of six (6) months. If during this probationary period the Town Administrator or other appointing authority, in consultation with the department head, determines that the job is not being satisfactorily performed, the employee shall be returned to his/her former position without prejudice.

#### 2.3-4 Demotion

An employee may be demoted to a position of lower grade for which the employee is qualified for any of the following reasons:

- (a) An employee would otherwise be laid off resulting from the abolition of a position; the employee's position is reclassified to a higher grade for which the employee is not qualified; lack of work; disciplinary action; lack of funds; or because of the return to work from authorized leave of another employee to such a position in accordance with the rules of leave set forth in these regulations.
- (b) An employee does not possess the necessary qualifications to render satisfactory service in the position the employee holds.

- (c) An employee voluntarily requests such demotion. All demotions must receive the approval of the Town Administrator or other appointing authority concerned. The employee shall be notified in writing of his demotion and of the reason for such action. Within ten (10) days of such notice the employee may request a meeting with the Town Administrator to discuss any demotion.

#### 2.3-5 Reinstatement

An employee who has resigned from town employment with a good record of employment may be re-employed. Any person re-employed shall be treated as any newly employed person.

#### 2.3-6 Resignation

Any employee who resigns from town employment shall provide notice of at least ten (10) working days to the department head. Department heads shall within three (3) business days of any resignation notify the Town Administrator of any such resignation. Any employee who resigns shall be obligated to complete necessary forms and may be requested to undergo an exit interview.

### **Part III COMPENSATION AND CLASSIFICATION**

#### **3.1 CLASSIFICATION AND COMPENSATION PLAN**

##### 3.1-1 Policy

The Town Administrator is to establish, maintain and provide a uniform system for classifying all positions, and establish proper relationships between positions based on the level of responsibilities assumed and the minimum qualifications required to perform the job so that the same schedule of compensation may be applied to each class, ensuring equitable pay.

##### 3.1-2 Coverage

All employees.

##### 3.1-3 Classification Plan Administration

The Town Administrator shall have responsibility for the administration of the classification plan and shall be authorized to:

- (a) Complete studies of new positions and make allocations to existing classes, establish a new class of positions, or delete a class of positions;
- (b) Provide for studies of existing positions when there has been a substantial change in the duties and responsibilities, which justify consideration of possible reclassification;
- (c) Conduct periodic studies to insure the classification plan remains uniform and current; and
- (d) Develop procedures to determine the proper classification of each position and classify positions.

#### 3.1-4 Classification of New Positions

A department head or appointing authorities proposing the creation of new positions shall provide the Town Administrator with a description of the duties, skills, knowledge, abilities and other work performance requirements of a proposed position in sufficient detail to enable the Town Administrator to appropriately classify the position.

#### 3.1-5 Reclassification of Positions and Periodic Reviews

Positions may not be reclassified without a review and approval of the Town Administrator. The Town Administrator shall review all positions subject to the classification plan in accordance with proper personnel practices.

#### 3.1-6 Ratification by Town Meeting

Decisions made by the Town Administrator to classify a position shall be subject to the ratification of the Town Meeting.

#### 3.1-7 Starting Rates for New Appointments

Persons appointed to position shall be paid at the minimum rate, provided, however, the appointing authority may, subject to the approval of the Town Administrator, recommend compensation at a higher rate on the basis of exceptional qualifications or a lack of qualified applicants available at the minimum rate.

#### 3.1-8 Merit Increases

After successful completion of the six-month probationary period, an employee shall be eligible for a step increase; thereafter, an employee shall be eligible for merit advancements after the completion of each year of satisfactory service until the maximum rate is reached. The Town Administrator shall develop an administrative procedure for the granting of the annual merit increase. For the purpose of this section, the date at which an employee is to be granted a step increase shall be the anniversary date of the first step increase.

The Town Administrator may adjust the rate of compensation for any position up to two (2) compensation steps, where such adjustment is deemed necessary to retain qualified employees in accordance with prevailing market conditions.

Merit increase shall be granted in accordance with any performance appraisal system or systems established in accordance with section 3.3 of these regulations.

#### 3.1-9 Promotion/Re-Classification

An employee who receives a promotion shall be compensated at the rate of pay that is closest to, but greater than, the employee's current rate of pay. A promoted employee's step date shall become the date on which he/she completes the probationary period for the new position. An employee whose position has been reclassified retains the same anniversary date for step increases.

Incumbent employees in any position, which is reclassified to a higher grade, shall be compensated at the rate of pay that is closest to, but greater than, the employee's current rate of pay.

### 3.1-10 Compensation for Temporary Employees

The Town Administrator shall establish the rate of pay for any temporary employee or group of employees.

## 3.2 **EXECUTIVE COMPENSATION**

### 3.2-1 Policy

While it is expected that town executives shall be granted the same benefits of other town employees, the town recognizes the need to develop flexible competitive compensation packages for selected town executives. Any compensation package must be reasonable and consider equity among department heads.

### 3.2-2 Coverage

All department heads and non-union supervisors.

### 3.2-3 Flexible Benefits

The Town Administrator may negotiate:

- (a) Salaries within approved ranges;
- (b) Professional development opportunities;
- (c) Educational leave, benefits or compensation;
- (d) Sick leave; and
- (e) Vacation leave

### 3.2-4 Written Agreements

Any agreement between the Town Administrator and department heads and non- union supervisors relating to items (a) to (e) listed in section 3.2.3 shall be in writing.

### 3.2-5 Deferred Compensation

Any employee who has reached step 9 of the Administrative & Professional classification plan shall become eligible to receive matching contribution toward his/her Deferred Compensation Plan, with a cap on the Town's required contribution of \$140 per week (\$7,280 per year). This benefit shall be available only to permanent full-time employees who are not represented by a collective bargaining unit. This benefit shall be prorated as follows:

Any employee who has reached step 7 shall become eligible to receive a matching contribution of \$105.00 per week (\$5,460 per year).

Any employee who has reached step 5 shall become eligible to receive a matching contribution of \$70.00 per week (\$3,640 per year).

Any employee who has reached step 3 shall become eligible to receive a matching contribution of \$35.00 per week (\$1,820 per year).

### 3.2-6 Flexible Spending Accounts

Any employee who is a member of the Administrative & Professional Plan and who is eligible for health insurance may enroll in a Flexible Spending Account. Accounts may be



established for medical and/or dependent care. Minimum and maximum contribution rates shall be set by the Town, within IRS guidelines.

### 3.2-7 Stipends

The Town Administrator shall serve as the appointing authority for all stipends listed on the Administrative & Professional Classification Plan.

The Town Administrator shall post the position of Transitional Advisor on an annual basis, on or about September 1<sup>st</sup> of each year, and shall fill from qualified applicants. In the event that multiple employees are qualified for this position, the Town Administrator shall appoint such employees as Co-Advisors. The stipend for the Transitional Advisor shall be 10% of the employee's base salary, paid on a weekly basis.

## 3.3 **PERFORMANCE APPRAISAL**

### 3.3-1 Policy

The town recognizes the need to establish and maintain a system of performance appraisal, which is designed to provide constructive feedback to the employee about the employee's performance.

It is the intention of the town that all non elected employees be subject to an annual performance appraisal and that a satisfactory performance appraisal shall be required if any changes in an employee's rate of compensation, including step increases, but not including annual wage or salary adjustments, are to be granted.

Furthermore, all newly appointed employees shall be subject to a performance appraisal prior to the completion of the probationary period; such performance appraisal must be satisfactory if employment is to be continued after the completion of the probationary period.

### 3.3-2 Coverage

All full-time and permanent part-time employees except elected officials.

### 3.3-3 Design of Appraisal System

The Town Administrator shall develop and promulgate a performance appraisal system or a series of systems. Town Departments may design and develop their own performance appraisal systems, subject to submission to and approval by the Town Administrator. In the development of a system the Town Administrator shall consult with employees that are to be subject to the system. Any appraisal system designed shall be to appraise an individual's actual performance and shall not be an assessment of personality characteristics or other extraneous factors.

### 3.3-4 Performance Appraisal Procedures

To insure compliance with the performance appraisal policy, the following procedures shall be followed:

- (a) Each department head shall maintain a calendar of anniversary dates of employees within the department.

- (b) One month prior to the employee's anniversary date of employment, or to the date of the requested employment action, the department head shall complete, or if appropriate, cause to be completed by the employee's immediate supervisor, a performance appraisal with the employee. A department head's performance appraisal shall be with the department head's appointing authority, and shall be made on the basis of the department head's overall performance in the position, along with consideration of goals and objectives established for the department.
- (c) Completed performance appraisals shall be forwarded to the Town Administrator who will review and approve them for completeness and compliance with these procedures, and shall be maintained as part of the employee's personnel record.
- (d) If the employee receives an overall "Satisfactory" or higher rating in the performance appraisal review, the increase in pay for which the employee is eligible will be granted.

If the employee receives an overall "Needs Improvement" rating, the requested increase in pay will be delayed for up to one year, or until the employee's performance is brought up to a satisfactory level as documented by the employee's supervisor, in which case it will be granted. When an increase in pay is delayed but later granted under these provisions, it shall not be made retroactive. Neither shall such action change the employee's anniversary or step date.

If the employee receives an overall "Unsatisfactory" rating the increase in pay will be denied for the year.

Performance appraisals shall be completed on the instrument designed for such purposes and shall be conducted in the manner prescribed.

The Town Administrator recognizes the need to receive input from a board or commission when reviewing the performance of an employee, if such employee provides staff support to a board or commission.

### **3.4 OVERTIME**

#### **3.4-1 Policy**

The town shall pay overtime in conformance with the Fair Labor Standards Act (FLSA). Department heads shall be responsible for the control and authorization of overtime. Overtime shall be authorized at the discretion of a department head. At the option of a department head, compensatory time may be provided in conformance with the FLSA. Employees listed in the *Administrative & Professional Classification Plan* are exempt from overtime and compensatory time.

#### **3.4-2 Coverage**

All employees, excluding all executive, administrative and professional employees, shall be entitled to overtime.

#### **3.4-3 Improper Deductions Policy**

The Town of Burlington complies with the salary basis requirements of the Fair Labor Standards Act (FLSA). The Town does not make improper deductions from the salaries of exempt employees. Exempt employees are those employed in a bona fide executive, administrative, or professional capacity and who are exempt from the FLSA's overtime pay requirements.

There are certain circumstances where deductions from the salaries of exempt employees are permissible. Such circumstances include:

- When an exempt employee is absent from work for one or more full days for personal reasons other than sickness or disability;
- When an exempt employee is absent for one or more full days due to sickness or disability if the deduction is made in accordance with a bona fide plan, policy or practice of providing compensation for salary lost due to illness;
- To offset amounts received as witness or jury fees, or for military pay; or
- For unpaid disciplinary suspensions of one or more full days imposed in good faith for workplace conduct rule infractions.

Also, an employer is not required to pay the full salary in the initial or terminal week of employment; for weeks in which an exempt employee takes unpaid leave under the Family and Medical Leave Act or; for penalties imposed in good faith for infraction of safety rules of major significance. In these circumstances, either partial day or full day deductions may be made.

If any exempt employee believes that an improper deduction has been made, the employee should immediately report this information to their direct supervisor, or to the Human Resources Director.

Reports of improper deductions will be promptly investigated. If it is determined that an improper deduction has occurred, the employee will be promptly reimbursed for any improper deduction made.

## **Part IV STANDARDS OF CONDUCT**

### **4.1 STANDARDS OF CONDUCT**

#### **4.1-1 Policy**

All persons employed by the town hold a position of public trust, and as a result, town employees must present themselves in a professional and appropriate manner. Town employees shall avoid any action, which might create the impression of using public office for private gain, giving preferential treatment to any person, or losing impartiality in conducting town business. Employees are expected to adhere to conduct established by the laws of the Commonwealth. All employees may be subject to disciplinary action for acting in a manner that is not consistent with these standards of conduct.

#### **4.1-2 Coverage**

All town employees whether elected or appointed, full or part-time, paid or unpaid are subject to the provisions of Part V of these Personnel Rules & Regulations, and other standards set forth herein.

### **4.2 SMOKING POLICY**

There shall be no smoking in any Town building or Town-owned or controlled vehicle, as required by the Massachusetts Smoke Free Workplace Act (MGL Chapter 270, §22. Additionally, in accordance with the laws of the Commonwealth, there shall be no smoking at any public meeting. Employees should be aware that fines may be assessed for violations

of these laws. Leaving a workstation to smoke must take place only within the confines of the breaks allowed by law and by union contract. Department Heads shall be responsible for ensuring employee compliance with this policy within their departments.

#### **4.3 POLITICAL ACTIVITY POLICY**

Participation in political activities is to be carried on outside of normal working hours. No political activities or solicitations will be conducted on town owned property by employees, during work hours or in work areas.

#### **4.4 CONFLICT OF INTEREST**

All employees shall make themselves familiar with and comply with General Law, Chapter 268A, which includes the following provisions:

- You may *not* ask for or accept anything worth \$50 or more from anyone with whom you have official dealings.
- You may *not* hire, promote, supervise, or otherwise participate in the employment of your immediate family or your spouse's immediate family.
- You may *not* take any type of official action which will affect the financial interests of your immediate family or your spouse's immediate family. For instance, you may not participate in licensing or inspection processes, decisions, etc. involving a family member or a family member's business.
- You may *not* take any official action affecting your own financial interest, or the financial interest of a business partner, private employer, or any organization for which you serve as an officer, director or trustee. For instance, if you serve on the Board of a non-profit organization, you may not take any official action which would impact that organization, or its competitors.
- Unless you qualify for an exemption, you may *not* have more than one job with the town.
- You may *not* represent anyone other than the Town of Burlington or yourself in any matter in which the Town, as your employer, has an interest. For instance, you may not contact other government agencies on behalf of a company, an association, a friend, or even a charitable organization.
- You may not *ever* disclose confidential information, data or material which you gained or learned as a public employee.
- Unless you make a proper, public disclosure -- including all the relevant facts -- you may *not* take any action that could create an appearance of impropriety, or could cause an impartial observer to believe your official actions are tainted with bias or favoritism.
- You may *not* use your official position to obtain unwarranted privileges, or any type of special treatment, for yourself or anyone else.
- You may *only* use public resources for purposes directly related to your employment with the Town of Burlington, with the exclusion of telephones as it relates to Section 4.8 herein. Examples of "public resources" include: office computers, phones, fax machines, postage machines, copiers, cars, staff time, sick time, uniforms, and official seals.

This summary presents a brief overview of the conflict law and suggests activities that you, as a public employee, must avoid. It is not a comprehensive review. You may call the State Ethics Commission's Legal Division at 617-727-0060 for individualized advice on the conflict law.

#### **4.5     PROFESSIONAL AND PERSONAL RELATIONSHIPS ON THE JOB**

The Town, in the conduct of business and management of its departments and agencies, must demonstrate equal treatment and impartiality within the workforce. The policy of the Town shall be to avoid possible conflicts between the professional and work activities of employees and any family relationships. To implement this policy, supervisors and department heads must be aware of family relationships and act appropriately. Supervisory relationships, which place one family member in the position to supervise or discipline another family member should be avoided and strongly discouraged. Family members working in the same department or agency should be assigned, as appropriate, to different work groups, shifts or work assignments and should not be placed in positions in which confidential information about a family member is available or handled. For the purpose of this policy, a family relationship shall be defined as a parent, child, spouse, or sibling.

#### **4.6     SAFETY POLICY**

##### **4.6-1   Policy**

Employees shall be required to wear and use the safety equipment at all times while undertaking the work for which the equipment is furnished. There shall be no exceptions.

##### **4.6-2   Responsibilities of Department Heads and Supervisors**

Department heads and supervisors shall assume full responsibility for the safety of working areas; recommend correction of deficiencies noted in work procedures, facilities, safety clothing or equipment or attitudes of employees; insure the availability and utilization of appropriate protective clothing and equipment; observe working conditions and field procedures to prevent possible safety hazards, and investigate and report all accidents promptly.

##### **4.6-3   Responsibilities of Employees**

Each employee shall observe all safety rules, operating procedures and safety practices; use personal protective equipment; report unsafe areas, conditions, or other safety problems, and report all accidents promptly to the appropriate supervisor.

Employees, including supervisors, violating safety rules, practices and policies may be subject to disciplinary action

### **ANTI-HARASSMENT POLICY**

#### **4.7     *Anti-Harassment Policy* (replaced 4.7A Anti-Harassment Policy and 4.7B Sexual Harassment Policy)**

##### **4.7-1   Introduction**

The Town of Burlington is committed to maintaining a working environment that is free from discrimination and harassment. It is Town policy to prohibit discrimination or harassment of an employee or by an employee (whether involving another employee, manager or third party such as residents, visitors, other government personnel, contractors, and vendors) because of race, color, religion, age, gender, sexual orientation, gender identity, gender expression, disability, pregnancy or condition related to the pregnancy, national origin, ancestry, protected genetic information, veteran status, military service or

other characteristics identified as being protected by applicable federal or state laws. Further, retaliation against an individual who has complained in good faith about discrimination or harassment, or has cooperated with an investigation of a discrimination or harassment complaint, will not be tolerated.

For purposes of this policy, harassment generally refers to conduct that has the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or offensive work environment; and retaliation includes direct or indirect action or inaction that may deter a reasonable employee from complaining or participating in an investigation into discrimination, harassment or other potential policy violation.

This policy covers full-time, part-time, temporary, and seasonal employees and elected officials, volunteers, interns, applicants, and third parties doing business or having contact with the Town. This policy applies to all work settings and activities, whether inside or outside the workplace, and includes business trips and Town- sponsored events. Town property (such as telephones, cell phones, copy machines, facsimile machines, computers, printers, tablets, e-mail and Internet access) may not be used to engage in conduct that violates this policy. The policy applies as well to off- duty conduct, including the use of social media, if there is a nexus to the workplace.

To achieve the Town's goal of a workplace free from discrimination, harassment, and retaliation, we have provided a procedure by which conduct prohibited by this policy will be dealt with if encountered by employees. The Town takes complaints and allegations seriously, and will respond promptly to complaints of discrimination, harassment, and retaliation. Where the Town determines that inappropriate conduct has occurred, it will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

Note that while this policy sets forth the Town's goals of promoting a workplace that is free of discrimination, harassment, and retaliation, the policy is not designed or intended to limit the Town's authority to discipline or take remedial action for conduct which the Town deems unacceptable, regardless of whether that conduct satisfies the legal definition of discrimination, sexual or other harassment, or retaliation.

#### 4.7-2 Sexual Harassment

The Town's policy against sexual harassment warrants separate discussion. It is the goal of the Town of Burlington to promote a workplace that is free of sexual harassment. In Massachusetts, the legal definition for sexual harassment means sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

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

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

- A man as well as a woman may be the target of sexual harassment, and a woman as well as a man may be the harasser.
- The harasser does not have to be the target's supervisor. He or she may be an agent of the supervisor, a supervisory employee who does not supervise the victim, a non-supervisory employee (coworker), or, in some circumstances, even a non-employee.
- The target does not have to be the opposite sex from the harasser.
- The target does not have to be the person at whom the unwelcome sexual conduct is directed. He or she may also be someone who is affected by such conduct when it is directed toward another person. For example, under objectively reasonable circumstances, the sexual harassment of one employee may create an intimidating, hostile, or offensive working environment for a coworker, or interfere with the coworker's work performance.
- Sexual harassment does not depend on the target having suffered an actual economic injury as a result of the harasser's conduct. For example, improper sexual advances, which do not result in the loss of a promotion by the target may under objectively reasonable circumstances, constitute sexual harassment where they interfere with the target's work or create a harmful or offensive work environment.

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

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

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

All employees should take special note that, as stated above, the Town will not tolerate retaliation against an individual who has complained about sexual harassment, or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint.

#### 4.7-3 Complaints of Sexual Harassment

If any Town employee believes that he or she has been subjected to discrimination, sexual or other harassment, or retaliation, or if a non-employee believes that he or she has been subjected to conduct of this nature by a Town employee, the individual has the right to file a complaint with the Town.

A complaint may be made orally or in writing by contacting:

- The Civil Rights Coordinator and Human Resources Director at Town of Burlington, 29 Center Street Burlington, MA 01803; Telephone: 781-505-1160 Email: [hr@burlington.org](mailto:hr@burlington.org)
- The Town Administrator at Town of Burlington, 29 Center Street Burlington, MA 01803; Telephone: 781-270-1635 Email: [selectboard@burlington.org](mailto:selectboard@burlington.org)

This designated person is available to discuss any concerns an individual may have and to provide information about the Town's policy against discrimination, harassment, or retaliation, and the complaint process.

#### 4.7-4 Investigation

When the Town receives a complaint of discrimination (including, without limitation, discrimination based on pregnancy or pregnancy-related conditions), harassment, or retaliation, it will take appropriate corrective action in a fair and expeditious manner. Any investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. Typically, an investigation would include private interviews with the person filing the complaint, with witnesses (as appropriate), and with the person alleged to have committed the offending conduct.

When the Town has completed its investigation, it will, to the extent appropriate, inform the person filing the complaint and the person alleged to have committed the conduct that the investigation has been concluded and that, as warranted, appropriate remedial action has been instituted. If the Town determines that inappropriate conduct has occurred, it will act promptly to eliminate the offending conduct, and as it determines appropriate, will also impose disciplinary action.

#### 4.7-5 Disciplinary Action

If the Town determines that inappropriate conduct has been committed by one of our employees, the Town will take action as it deems appropriate under the circumstances. This may range from counseling to termination from employment, and may include such other forms of disciplinary or corrective action.

#### 4.7B-6 State and Federal Remedies

The Town strongly encourages employees to bring any concerns about possible discrimination, harassment, or retaliation to its attention, so that it can promptly look into the matter and take corrective action through internal processes. In addition, if an employee believes he or she has been subjected to discrimination, harassment, or retaliation, one or both of the government agencies listed below may have jurisdiction over the matter. Using the Town's internal complaint process does not prohibit an employee from filing a complaint with these agencies.

1. The United States Equal Employment Opportunity Commission ("EEOC")  
John F. Kennedy Federal Building  
Government Center Room 475  
Boston, MA 02203-0506  
(800) 669-6820 or (800) 669-6820 (TTY)  
[www.eeoc.gov/field/boston/index.cfm](http://www.eeoc.gov/field/boston/index.cfm)



2. The Massachusetts Commission Against Discrimination ("MCAD")  
Boston Office: Springfield Office  
One Ashburton Place - Room 601 436 Dwight Street, Room 220  
Boston, MA 02108 Springfield, MA 01103  
(617) 994-6000 (413) 739-2145

#### **4.8 TELEPHONE POLICY**

Employees shall limit in-coming and out-going local personal telephone calls to a minimum. Employees shall not use town telephones to make personal long distance telephone calls; but if circumstances require making a personal long distance telephone call, the employee shall reimburse the town for all costs.

#### **4.9 GUIDELINES FOR DISCIPLINARY ACTION**

Disciplinary action may be initiated for failure of an employee to fulfill responsibilities as an employee, including any standards set forth in these personnel policies.

Some examples of actions, which are to be considered sufficient cause for disciplinary action shall include, but is not intended to be limited to, the following:

- (a) Incompetence or inefficiency in performing assigned duties;
- (b) Refusal to perform a reasonable amount of work or violation of any reasonable official order or failure to carry out any lawful and reasonable directions made by a proper supervisor;
- (c) Habitual tardiness or absence from duty;
- (d) Falsification of time sheets;
- (e) Use or possession of illegal narcotics or alcohol while on duty;
- (f) Inability to carry out essential functions of the position as a result of use or the possession of illegal drugs or alcohol;
- (g) Misuse or unauthorized use of town property;
- (h) Fraud in securing appointment;
- (i) Disclosure of confidential information;
- (j) Abuse of sick leave or absence without leave;
- (k) Violation of safety rules, practices and policies;
- (l) Engaging in sexual or other harassment;
- (m) Acceptance of gratuities;
- (n) Conviction of a felony;
- (o) Inappropriate political activity while on duty;
- (p) Violation of these personnel rules and regulations;
- (q) Any situation or instance of such seriousness that disciplinary action is warranted.

#### **4.10 DISCIPLINARY PROCEDURES**

##### **4.10-1 Policy**

The Town Administrator or other appointing authority, department heads, and supervisors shall be responsible for enforcing standards of conduct and these rules and regulations.

Failure to comply with standards of conduct or any rules and regulations may result in disciplinary action.

#### 4.10-2 Type of Disciplinary Actions

The type of disciplinary action imposed is at the discretion of the appointing authority and department heads, and is dependent upon the nature of the disciplinary violation.

Disciplinary action shall include only one or a combination of two or more of the following.

- (a) Oral reprimand
- (b) Written reprimand
- (c) Probation
- (d) Suspensions
- (e) Discharge

Department heads and supervisors shall be responsible for preparing written documentation of disciplinary action imposed. All written documentation shall be provided to the appointing authority and Town Administrator, and shall be filed in an employee's personnel record keeping system.

#### 4.10-3 Disciplinary Action

- (a) Oral reprimand

The Town Administrator, or other appointing authority, department head or supervisor observing the action of an employee warranting disciplinary action may issue an oral warning to the employee. Such oral reprimand shall be presented in a manner minimizing embarrassment to the employee. Such oral reprimand shall include a statement concerning the purpose of the reprimand and include an offer of assistance in correcting the deficiency. Documentation of the oral reprimand shall be placed in the employee's personnel file.

- (b) Written reprimand

The Town Administrator, or other appointing authority, or a department head, may issue a written reprimand if an oral warning fails to correct an action warranting disciplinary action. The reprimand shall include; the charge, the specific behavior and dates of the behavior, as appropriate; the warning that continuance of the behavior will result in severe disciplinary action; an offer of assistance in severe disciplinary action; an offer of assistance in correcting the behavior; circumstances affecting the severity of the disciplinary action and any right of appeal. A copy of the written reprimand shall be placed in the employee's personnel file.

- (c) Probation

If a written reprimand fails to correct a disciplinary situation, the employee may be required to serve a maximum three (3) months disciplinary probation upon the determination by the department head or designee, together with the Town Administrator. An employee shall receive written notice of such disciplinary probation setting forth the reasons for the disciplinary probation, the effective date of such probation and the period of such probation.

The notice of disciplinary probation shall include the charge; the specific behavior and dates of the behavior, as appropriate; the warning that continuance of the behavior will result in severe disciplinary action; an offer of assistance in correcting the behavior; circumstances affecting the severity of the disciplinary action; and any right of appeal. A copy of the notice of probation shall be placed in the employee's personnel file.

When an employee's disciplinary probation expires, the department head shall notify the Town Administrator or other appointing authority in writing that:

- (a) The employee's performance and behavior is satisfactory and the individual will be retained in the town service or;
- (b) The employee's performance and behavior remain unsatisfactory and the department head recommends the employee be either suspended or discharged.

(d) Suspension

The Town Administrator, an appointing authority, or a department head, may suspend an employee. On or before the date of suspension the Administrator, an appointing authority or a department head, shall furnish the employee with a written statement setting forth the reasons for the suspension, the effective date of the suspension and the date the employee shall return to work. The notice of suspension shall include: the charge; the specific behavior and dates of the behavior, as appropriate; the warning that continuance of the behavior will result in severe disciplinary action; an offer of assistance in correcting the behavior; circumstances affecting the severity of the disciplinary action; and any right of appeal. A copy of the notice of suspension shall be placed in the employee's personnel file.

(e) Discharge

The Town Administrator, or other appointing authority, may discharge an employee for unsatisfactory job performance, violation of town rules and regulations, or for any situation or instance of such seriousness that discharge is warranted. An employee shall be given written notice of the discharge signed by the appropriate appointing authority specifying: the date of discharge; the charge; the specific behavior and dates of the behavior, as appropriate; circumstances affecting the severity of the disciplinary action, and any right of appeal.

#### 4.10-4 Grievance Procedure

Grievances shall relate to improper application of these personnel rules and regulations or disciplinary procedures and shall be resolved in the following manner:

(a) First Step

An aggrieved employee shall discuss any matter or dispute with an immediate supervisor in a mutual effort to resolve any problem or misunderstanding.

Upon failing to resolve any grievance in an informal manner, an aggrieved employee may present a grievance, in writing, to a department head within ten (10) working days from the time the employee has knowledge or reasonably should have had knowledge of the occurrence, which gave rise to the grievance. The written grievance shall contain the following information: the section of the personnel regulation upon which the grievance is based; the occurrence(s) being grieved; applicable dates and time, along with any pertinent information relative to the grievance; and indicating the relief that is desired. The department head, within five (5) working days of receipt of a grievance, shall provide an answer in writing to the aggrieved employee. If the immediate supervisor and the department head are the same, the employee may follow procedures set forth in subsection (b) below.

(b) Second Step

If the grievance has not been resolved as provided in (a) above the aggrieved employee may within five (5) working days after receipt of the written answer from the department head or within ten (10) working days after presentation of the grievance to the department head present the grievance, in writing, to the Town

Administrator or the appropriate appointing authority. If the Town Administrator or appointing authority and the department head are the same, then the employee shall immediately follow procedures set forth in sub section (c) below. The appointing authority shall answer the grievance in writing within ten (10) days after its receipt.

(c) Third step

If the grievance has not been resolved as provided in (b) above, the aggrieved employee may within ten (10) working days after receipt of the written answer from the appointing authority present the grievance, in writing, with a request for a hearing to the Board of Selectmen. The Board of Selectmen shall hold a hearing on the grievance and shall answer the grievance within thirty (30) days after its receipt. The Board of Selectmen may support, modify or reverse the action of the appointing authority. The decision of the Board of Selectmen shall be final.

4.10-5 Procedural Protection

Counsel or other representatives may represent employees during the grievance process. Any expenses incurred by an employee during the course of the grievance process shall be borne by the employee. If any employee is required or requested to be present at any hearings on a grievance, the employee shall not lose any pay for work time lost. Department heads or supervisors shall not retaliate or take any disciplinary action against an employee based on the filing of any grievance.

4.10-6 Failure to Act

Grievances are expected to be filed in a timely manner and all time limits specified in the grievance process shall be met by the employee filing a grievance and the Town, provided, however, any time limit may be extended by written agreement of the Town Administrator and the employee filing a grievance. Failure of the employee to meet the time limits specified in this section shall result in a grievance being declared null and void. Failure by the town to act in accordance with the time limits set forth in this section shall be an automatic denial of the grievance and shall move the grievance to the next step.

4.10-7 Coordination/Consultation

Department heads and appointing authorities shall discuss disciplinary problems and actions with the Town Administrator to insure uniformity of practice and coordination of disciplinary actions.

**4.11 DRUG-FREE WORKPLACE POLICY**

It shall be a violation of the Personnel Rules and Regulations of the Town of Burlington for any employee to unlawfully manufacture, distribute, dispense, possess or use on or in the workplace or to be under the influence of any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, alcohol or any other controlled substance, as defined in Schedule 1 through V of section 202 of the Controlled Substances Act (21 U.S.C. 812). Disciplinary action, up to and including termination of employment, may be taken against any employee who violates this policy.

For purposes of this policy, “workplace” is defined as the site for the performance of work done as any employee of the Town of Burlington. That includes any place where work is performed, including a building or other premises, any Town-owned vehicle, or any vehicle operated by an employee while in the performance of his/her work.

Compliance with this policy shall be considered a condition of continued employment. Any employee of the Town of Burlington who is convicted of any criminal drug statute for a violation occurring in the workplace shall notify his/her supervisor no later than five (5) days after such conviction. Failure to provide such notification shall be grounds for dismissal. Any employee who violates the terms of the Town of Burlington drug-free workplace policy shall satisfactorily participate in a drug abuse assistance or rehabilitation program approved by the Town of Burlington. Successful completion of such a rehabilitation program will not jeopardize an employee's position with the Town. However, if the employee fails to satisfactorily participate in such program, the employee may be suspended or terminated at the discretion of the appropriate Appointing Authority in accordance with the provisions of the Town's Personnel Rules and Regulations, Massachusetts General Laws, and applicable collective bargaining agreements.

#### **4.12 PROFESSIONAL CONDUCT POLICY**

It is the goal of the Town of Burlington to promote a workplace of mutual respect and appropriate conduct. It is expected that employees will take pride in their employment and will conduct themselves in a professional manner in the workplace and when representing the Town at off-site locations and events. The purpose of this policy is to outline expected conduct of all employees. All employees are responsible for ensuring a professional workplace. Managers are expected to enforce this policy with their respective employees.

By accepting employment with the Town of Burlington, employees have a responsibility to the Town and to other employees to adhere to certain standards of behavior and conduct. These include, but are not limited to:

- Respect for and appropriate use of Town property, as well as the property of other employees.
- Maintaining confidentiality of any information gained through employment with the Town.
- Treating the public in a respectful and positive manner.
- Professional appearance (i.e. clean and neat clothing and personal grooming) that is appropriate for the work setting.
- Displaying professional conduct and good manners in words and actions.
- Avoiding behaviors and actions that may be offensive to others (i.e. racial or ethnic slurs, abusive language, threats, or physical violence).
- Engaging in safe and appropriate behavior at all times.
- Showing a willingness to assist others when needed.
- Displaying honesty, sound ethics, and integrity in all business contacts and decisions.
- Contributing to a safe and sanitary working environment.

If an employee believes that he/she has been subjected to conduct prohibited by this policy, the employee is encouraged to report the matter to any supervisor, manager, or to Human Resources.

The Town of Burlington will not condone any form of retaliation against any individual in making a good faith complaint or report of conduct prohibited by this policy, or who assists in the investigation of any such complaint or report.

#### **4.13 PROFESSIONAL APPEARANCE**

The appearance of all employees directly reflects on the image of the Town of Burlington. Because employees are a direct representation of the Town and may, at any time, be visible to a member of the public, all employees are expected to dress and groom in accordance with these standards:

It is important that all employees be well-groomed and in a neat and proper office or business attire. T-shirts with non-Town-related logos, sweat pants, spandex, shorts, overly-revealing attire and similar items of apparel are not permissible. All clothing must be clean, pressed and free from rips or tears. Department heads may implement dress code requirements that are relevant to departmental operations.

If a supervisor feels that an employee's attire and/or grooming is not in accordance with these requirements, the employee may be asked to leave the workplace until he/she is properly attired and/or groomed. If available, vacation, personal, or compensatory time will be used for such an absence; otherwise the absence will be unpaid.

### **PART V LEAVES AND RELATED BENEFITS**

#### **5.0 REQUESTS FOR LEAVE**

Employees shall certify their use of leave time provided within Sections 5.2, 5.3, 5.4, and 5.5 herein by completing a request form at their earliest convenience, and no later than the first workday the employee returns from leave. Accumulated leave benefits may be taken in hourly increments and may be taken in as little as 30-minute increments in accordance with the provisions within these Sections.

#### **5.1 HOLIDAYS**

##### **5.1-1 Coverage**

Full-time and qualified part-time employees

##### **5.1-2 Recognized Holidays**

The following holidays shall be recognized by the town on the day on which they are legally observed by the Commonwealth of Massachusetts, and on these days employees, without loss of pay shall be excused from all duty except in cases where the appointing authority determines that the employee is required to maintain essential town services.

New Year's Day	Labor Day
Martin Luther King Day	Columbus Day
President's Day	Veteran's Day
Patriot's Day	Thanksgiving Day
Memorial Day	The day after Thanksgiving
Juneteenth	Christmas Day
Independence Day	

##### **5.1-3 Terms of Holiday Pay**

Holiday pay shall be granted as follows:

An employee paid on an hourly basis will receive one day's pay at the regular rate, based on the number of hours regularly scheduled on the day on which the designated holiday occurs. If the number of hours worked varies, the amount of holiday pay to which an employee is entitled shall be determined by the employee's appointing authority. Holiday pay shall be granted to an employee provided that the employee shall have worked on the last scheduled working day prior to, and the next regularly scheduled working day following such holiday, or was in full pay status on such preceding and following days in accordance with other provisions of these regulations, and was appropriately excused.

Whenever any of the holidays listed above fall on Saturday, the preceding Friday shall be observed as the holiday; whenever any of the holidays listed above falls on Sunday, the following Monday shall be observed as the holiday.

## **5.2 VACATION LEAVE**

### **5.2-1 Coverage**

Full-time and qualified part-time employees

### **5.2-2 Accrual of Vacation**

Vacation shall be granted based upon continuous service, in accordance with the following schedule.

- (a) All employees in continuous service of the town for at least six months, but less than one year, shall be entitled to one week (5 days) of vacation leave with pay.
- (b) All employees in continuous service of the town for more than one year, but less than five years, shall be entitled to two weeks (10 days) of vacation leave with pay.
- (c) All employees in continuous service of the town for more than five years, but less than ten years, shall be entitled to three weeks (15 days) of vacation leave with pay.
- (d) All employees in continuous service of the town for more than ten years, but less than fifteen years, shall be entitled to four weeks (20 days) of vacation leave with pay.
- (e) All employees in continuous service of the town for more than fifteen years shall be entitled to five weeks (25 days) of vacation leave with pay.

### **5.2-3 Scheduling**

Vacation leave shall be authorized by department heads at such times, in the opinion of the department heads, as to cause the least interference with the performance of regular work of the town.

If an employee wishes to take two (2) or more consecutive vacation days off, the request must be made at least 48 hours in advance. Insofar as possible, a vacation request of one (1) day or less shall be made with at least 24 hours notice.

Vacation leave shall not be unreasonably denied. Department heads shall take into account the preference of employees as much as is possible.

### **5.2-4 Carry Over**

Employees may accumulate unused vacation to any amount. For purposes of carryover from one calendar year to the next, each employee's accumulation must be reduced prior to

December 31<sup>st</sup> to a maximum of 1.5 times the annual vacation allowance (i.e. an employee who accrues 4 weeks per year may carry over up to 6 weeks). Otherwise the amount of vacation carried over shall be reduced accordingly at the end of the calendar year.

#### 5.2-5 Termination

Whenever employment is terminated, the employee shall be paid an amount for that portion of the vacation allowance earned in the vacation year during which termination occurred, up to the time of the employee's separation from the payroll.

#### 5.2-6 Death

Whenever employment is terminated by death, the estate of the deceased shall be paid an amount for that portion of the vacation allowance earned in any vacation year during which the employee died, up to the time of this separation from the payroll.

#### 5.2-7 Holiday While on Vacation

An employee shall be granted an additional day of vacation, if while on vacation leave a designated holiday occurs.

### 5.3 **SICK LEAVE**

#### 5.3-1 Coverage

Full-time employees and qualified part-time employees, unless otherwise provided.

#### 5.3-2 Accumulation

All employees hired before July 1, 2006: An employee in continuous service shall earn 1 and ¼ days of sick leave for each full calendar month of service. Sick leave shall accumulate without limit.

5.3-3 All employees hired after July 1, 2006: An employee in continuous service shall earn 1 day of sick leave for each calendar month of service. The annual sick leave balance shall not be authorized to accrue past 100 days. Upon reaching the 100-day accrual maximum, sick leave shall cease to accrue.

#### 5.3-4 Use of Sick Leave

Sick leave except as set forth in Section 5.5 shall be granted to an employee only when the employee is incapacitated from the performance of duties by personal sickness, injury, by exposure to a contagious disease, or for the period of time needed for medical appointments, with the exception that up to five (5) sick days annually may be used for an illness within the employee's household.

#### 5.3-4 Authorization of Sick Leave

Sick leave except as set forth in section 5.5 shall be authorized by a department head. Notification of illness shall be made to the employee's supervisor, if possible, prior to starting time or as soon as practical thereafter. The department head may require a physician's certificate of illness.



### 5.3-5 Workers' Compensation and Sick Leave Supplemental Payments

The town shall supplement workers' compensation payments in the amount, which is the difference between the amount paid in Workers' Compensation payments and the employee's regular compensation to the extent the employee has accumulated sick leave. Such supplemental payments shall be charged against accrued sick leave and/or vacation until such leave has been exhausted at which time such supplemental payments shall cease.

### 5.3-6 Sick Leave Buy Back (Amended 1/1/99 & 7/1/04)

- I. For Administrative & Professional Employees hired prior to July 1, 2004, all unused sick leave shall accumulate until retirement or death. Upon retirement, provided the employee gives a minimum of 12 months notice, or death the Town shall pay to an employee, or the estate of the employee, a lump sum payment of sixty percent (60%) of the number of days at an employee's per diem rate, but in no case shall the number of days bought back by the Town exceed one hundred (100) days.
- I (A) Employees hired after July 1, 2004 shall receive a maximum lump-sum payment of 50 (fifty) sick days upon death or retirement, provided the employee gives a minimum of 12 months notice of retirement.
- 1 (B) The Town Administrator may waive the requirement to provide 12 months notice of retirement if extenuating circumstances exist.
- II. (Effective 1/1/99)  
Authorize the Administrative and Professional members, the ability to create a sick bank, which would not create any additional cost to the Town of Burlington.

### 5.3-7 Extended Sick Leave

In the case of exceptional circumstances, and when all other accumulated leave factors have been exhausted, additional sick leave allowances may be granted on recommendation of the department head and approval by the Town Administrator. However, employees granted extended sick leave shall not accrue additional benefits, such as seniority, longevity, vacation leave and sick leave during the period of such leave, unless the employee has entered into an agreement concerning the repayment of such benefits and such repayment has been completed. In determining whether such extended sick leave allowances shall be granted, the following factors shall be taken into account: the past absences of the employee; the length of continuous service with the Town; the quality of the employee's performance and record, and the employee's willingness to enter into a binding legal agreement with the Town for the repayment of such benefits as may be extended under this provision. Consideration may also be given as to what portion of the allowance shall appropriately be at full pay and what portion at part pay.

### 5.3-8. Voluntary Sick Leave Buy-Back (amended 7/25/01; 7/1/02, 7/1/04 & 7/1/08)

As an incentive to reduce the Town's long term accumulated sick leave liability and to provide an incentive to full-time members of the Administrative & Professional Plan, the Town will provide a voluntary program to buy back from each eligible member five (5) days or one weekly pay on or about November 15<sup>th</sup> of each fiscal year provided that:

- a) A full-time, appointed, member of the Administrative and Professional Plan has accumulated a minimum of 25 sick days by July 1<sup>st</sup> of each new fiscal year.

- b) A member who wishes to participate in this voluntary program must notify the Town Administrator in writing on a form available through the Human Resources Department by September 1<sup>st</sup> of each fiscal year of their intent to submit their request for this benefit.
- c) The five (5) days of pay shall be deducted from a member's accumulated sick leave, which in no case shall be allowed to go below 25 days as specified in "a" above. Each employee who participates in the sick-leave buyback program shall have the 5 days deducted in November; the employee's annual attendance calendar shall clearly reflect the deduction from the total, accumulated sick leave balance.

#### **5.4 OTHER TYPES OF LEAVE**

##### **5.4-1 Coverage**

All full-time employees and part-time employees, unless otherwise provided.

##### **5.4-2 Bereavement Leave Policy**

In case of death of an employee's spouse, child or stepchild, a permanent, full-time employee shall be granted leave of absence with pay for five (5) working days.

In the case of death of any immediate family as listed, permanent full time or permanent part time employee shall be granted a leave of absence with pay for up to four (4) working days. Immediate family is defined as brother, sister, parent, parent-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparents, grandchildren, uncles, aunts, first cousins or other relative residing in the same household as the employee. A three (3)-day bereavement leave will be given for spouse's grandparents; a two (2)-day bereavement leave will be given for niece or nephew.

Such paid leave must be taken from the time of death up to two weeks after the funeral, unless approved by the Town Administrator. Bereavement pay will be paid only if the employee is scheduled to work on the days lost, attends the funeral and furnished reasonable proof of the relationship of the deceased provided such proof is requested. At the discretion of the Town Administrator, one additional day for travelling long distances may be granted.

##### **5.4-3 Jury Leave Policy**

Jury leave shall be granted in accordance with state law, Mass. General Laws Chapter 234, Section 1B.

##### **5.4-4 Military Leave Policy**

Employees in the service of the armed forces of the Commonwealth of MA or a reserve component of the armed forces of the United States shall be paid their regular compensation received during service in the uniformed services, annual training under MGL Chapter 33 Section 60 or drills and parades under MGL Chapter 33 Section 61, consistent with the time periods specified in MGL Chapter 33 Section 59<sup>1</sup>, and shall not lose any seniority or any accrued vacation leave, sick leave, personal leave, compensation time or earned overtime.

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<sup>1</sup> As of January 1, 2019, such leave shall not exceed 40 days in any federal fiscal year. A "day" is defined as any 24-hour period.

For the purposes of this section, "uniformed services" shall have the same meaning as defined in MGL Chapter 33 Section 13.

Employees shall submit their orders to their department head who will forward to the Town Administrator to verify eligibility for leave under this policy.

#### 5.4-5 Leaves of Absence Policy

In general, the appointing authority may, at their discretion, grant leaves of absence, for reasons other than set forth in Section 5.5 below without compensation for periods not exceeding 90 days in duration without loss of seniority. Only those employees completing at least one year of continuous service shall be eligible for leaves of absence under this section.

Employees granted a leave of absence shall be classified as out of service of the town and shall not be entitled to other benefits as may be provided by the town, including, but not limited to seniority, sick leave, vacation leave and compensation during the periods of the leave.

An employee granted a leave of absence under the FMLA shall be entitled to regular coverage under applicable group health, and life insurance plans. For other unpaid leaves of absence, the employee can continue with health insurance coverage in accordance with MA General Law Chapter 32B Section 7: During an unpaid leave of absence, an employee must make payment for the full premium cost of insurance. However, if the absence is due to the employee's medical condition preventing the employee from performing the duties of the position, documented to the satisfaction of the Town, the employee must make payment of fifty percent (50%) of the premium. In both instances, the payments must comply with the payment process required by the Town.

Leaves of absence shall not be granted to enable an employee to accept other employment or for self-employment. Any request for leave of absence or reinstatement after such leave without pay shall be made in writing.

#### 5.4-6 Personal Days

Three (3) free standing personal days leave with pay may be granted to an employee on July 1<sup>st</sup> of each fiscal year. Employees with satisfactory continuous service to the Town past their probation period will be eligible to receive personal days. Personal leave days shall be non-cumulative and shall not carry over from one fiscal year to the next.

New employees hired between January 1 and June 30 receive one (1) personal day upon completing their probation period. New employees hired between July 1 and December 31 receive two (2) personal days on the initial July 1<sup>st</sup>.

### 5.5 **FAMILY MEDICAL LEAVE**

An employee who has been employed for twelve (12) consecutive months and who has worked 1,250 hours in the last twelve months shall be eligible for up to a total of twelve workweeks of family medical leave in any twelve (12) month period. The twelve (12) month period will be a rolling twelve (12)-month look-back period based on the employee's use of FMLA leave during the previous twelve (12) months. The leave shall be an unpaid leave unless the employee elects to use any accumulated paid leave. If accumulated paid leave is to be used in the event of caring for a sick family member, the employee may use

any accrued vacation or personal leave, and up to one half of his/her accumulated sick leave.

The employee shall give at least 30 days notice of the intended date upon which leave will commence and terminate, unless prevented by an emergency situation from giving that notice. The employee may be requested to provide a written medical certificate, in a timely manner, to document that the employee cannot perform essential job functions or the nature of the family illness. An employee can certify that he/she is needed to care for the family member.

This leave may be requested and must be granted to an eligible employee for the following:

- birth of a child or to care for a newborn child, or adoption of a child or the placement of a foster child in the employee's home;
- serious illness of the employee, his or her spouse, child, including adopted or foster child or parent (Serious illness is defined in accordance with the Family and Medical Leave Act 29 CFR S825.114);
- any qualifying exigency arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.

When necessary, leave may be consecutive, intermittent, or on a reduced hour schedule subject to the approval and the ability of the department head to accommodate such schedule.

**Servicemember Family Leave:** An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember shall be entitled to a total of 26 workweeks of leave during a 12 month period to care for the servicemember. Such leave shall only be available during a single 12 month period.

**Combined Leave Total:** During the single 12 month period described in the previous paragraph, such eligible employee shall be entitled to a combined total of 26 workweeks of leave for all reasons of eligibility as stated above.

The Town will continue the employee's health benefits coverage during such leave at the same level of contribution. Seniority will accrue during the term of the leave. An employee taking such leave is entitled to be restored to the position held by the employee when the leave commenced, and will be entitled to any other benefit the employee would have accrued had he/she not taken the leave.

## **5.6 LONGEVITY COMPENSATION**

Employees appointed after July 1, 1990 shall receive longevity payment above their respective base compensation rate then in effect in accordance with the following:

Years of Employment	Longevity Increments (Appointed Employees)
5	\$ 500
10	\$1000
15	\$1500

Longevity payments are for individuals employed by the Town of Burlington on or before June 30, 2002. Employees hired on or after July 1, 2002 shall not be eligible to receive longevity payments.

## **5.7 WORKERS' COMPENSATION**

### **5.7-1 Coverage**

All employees

### **5.7-2 Period Not Covered by Workers' Compensation**

Charges shall be made against sick accruals for the legal waiting period not covered by the state workers' compensation act.

### **5.7-3 Coordination of Sick Leave with Workers' Compensation**

An employee receiving sick leave with pay and simultaneously receiving compensation under workers' compensation laws shall receive only that portion of his/her regular salary that will, together with said compensation, equal his/her regular salary. Sick leave shall be charged accordingly.

## **5.8 EMPLOYEE INCURRED EXPENSES AND REIMBURSEMENT**

### **5.8-1 Policy**

The town will reimburse all legitimate expenses incurred by an employee as a result of that employee performing town business, related to the employee's work, subject to appropriation of sufficient funds.

### **5.8-2 Coverage**

Regular full-time employees and eligible part-time employees.

### **5.8-3 Mileage Reimbursement**

The town will reimburse employees at the I.R.S. approved rate when an employee must use a personal vehicle for town-related business, provided that they have prior approval from a supervisor to use a personal vehicle. Travel expenses between the employee's home and work location are not reimbursable. If travel is required from home to a third location for business purposes, then to work, or vice-versa, reimbursement will be the difference between the mileage from the home to work and the total miles driven on business.

Request for reimbursement must be approved by the employee's supervisor on a travel expense form that displays the date the travel occurred, the destination, the reason for the travel and the number of miles traveled.

### **5.8-4 Travel Reimbursement**

Reasonable travel expenses will be reimbursed by the town after expenses have been submitted in significant detail on a travel expense form. The following guidelines should be followed whenever possible:

- (a) All air travel must be approved by a supervisor; all travel will be in the coach section of the aircraft and ticket receipt should be attached to the travel expense form.
- (b) Employees should request in advance, approval for use of a rental car at their destination. A copy of the rental car agreement should be attached to the travel expense form.

- (c) Employees should select moderately priced lodging and submit a detailed receipt.
- (d) Employees must submit receipt for meals. In lieu of submitting a receipt for meals, an employee may receive a per diem of \$25 when meals are not provided while travelling.

#### 5.8-5 Conferences and Meetings

Employees can receive reimbursement, subject to any state statutory requirements, for attending conferences or meetings sponsored by institutions or professional organizations for which the subject matter relates directly to the employee's position or provides beneficial information to enhance departmental operations. Prior approval of the department head is necessary and total expenses must be within departmental budget limits.

#### 5.8-6 Professional Membership

Approval of a town-sponsored membership in an appropriate professional organization will be the responsibility of the employee's department head, subject to the availability of funds.

#### 5.8-7 Publications

Approval of town-paid subscriptions to any appropriate professional publication must be approved by the employee's department head, subject to the availability of funds.

### **5.9 USE OF TOWN-OWNED VEHICLES**

#### 5.9-1 Policy

- (a) Town vehicles may only be used for legitimate job-related purposes only, and in no case, shall they be used for personal conveyance.
- (b) Only those employees with emergency response responsibilities on a 24-hour basis may take town-owned vehicles home with them and use them to commute to work.
- (c) Town vehicles will not be used to transport any individual that is not directly or indirectly related to Town business. Passengers shall be limited to Town employees and individuals who are directly associated with Town work activity (committee members, consultants, contractors, etc.).
- (d) Vehicles should contain only those items for which the vehicle is designed. The Town shall not be liable for the loss or damage of any personal property transported in the vehicle.
- (e) Employees are expected to keep Town vehicles clean, and to report any malfunction or damage to their supervisor immediately.
- (f) Employees are expected to park vehicles in safe locations.
- (g) Employees must turn the vehicle ignition off, remove the keys, and lock the vehicle when left unattended.
- (h) The use of seat belts, when available, is required by all Town employees and passengers when operating or riding in Town-owned vehicles, except for Fire Department personnel riding in the back of an ambulance, or in other exceptional circumstances, which require Fire Department personnel to be in a position other than seated and buckled. Passengers in COA vans shall not be required to wear seat belts.
- (i) All operators of vehicles that require a CDL license must be tested for drugs and alcohol as provided by US DOT regulations.

- (j) Employees may not operate Town vehicles under the influence of alcohol, illegal drugs, or prescription drugs or medications that may interfere with effective and safe operations.
- (k) Smoking is prohibited in all Town vehicles.
- (l) Employees who operate Town vehicles must have a valid motor vehicle license issued by the state of their current residence and may be required to provide proof of valid motor vehicle license, and may be requested to certify that they have not had any moving violations or accidents.
- (m) All new drivers must allow a motor vehicle record check prior to driving any Town owned vehicle.
- (n) An adverse drug record, regardless of what vehicle it occurred in, may result in revocation of an employee's privilege to operate Town vehicles. If operating a Town vehicle is an essential job function, reclassification or termination could result.
- (o) Employees driving Town vehicles shall obey all applicable traffic and parking regulations, ordinances, and laws.
  - a. Employees who incur parking or other fines in Town vehicles will generally be personally responsible for payment of such fines.
  - b. Employees who are issued citations for any offense while using a Town vehicle must notify their supervisor immediately when practicable, but in no case later than 24 hours. Failure to provide such notice will be grounds for disciplinary action.
  - c. An employee who is arrested for or charged with a motor vehicle offense for which the punishment includes suspension or revocation of the motor vehicle operators license, whether in his or her personal vehicle or in a Town vehicle, must notify his or her supervisor immediately when practicable, but in no case later than 24 hours. Conviction for such an offense may be grounds for loss of Town vehicle privileges and/or further disciplinary action.
- (p) Under NO circumstances will any person ride in the back of open vehicles, such as pick-up and utility trucks, or in a trailer or bucket of a loader or backhoe.
- (q) The capacity of a vehicle cannot exceed the number of seatbelts, with the exception of fire apparatus and Council on Aging passenger vans.
- (r) Anyone driving a Town vehicle must be at least 18 years of age.

Failure to comply with any and all provisions of this policy may result in disciplinary action up to and including removal of Town vehicle privileges, suspension, and/or termination from Town service.

#### 5.9-2 Coverage

All town employees.

#### 5.9-3 Out-Of-State Travel

No town-owned vehicle, with the exception of Police vehicles used for transporting prisoners, may be used to travel out of state without the express written authorization of the Town Administrator.