

Town of Durham

# **EMPLOYEE HANDBOOK**

## **Approved November 22, 2011**

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*(Sections: Vacation, Harassment, Snow Policy, Jury Duty)*

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*(Sections: Overtime, Call-Outs, Holidays, Winter Operations)*

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*(Sections: Cell Phone Use Policy, Policy on Recording)*

*Amended: August 9, 2016*

*(Section: Vacation Benefits)*

*Amended: October 24, 2023*

*(Section: Vacation Benefits)*

## **INTRODUCTION**

This handbook is intended to provide general guidelines for many of the employment policies and practices of the Town of Durham (the “Town”). It does not contain all of the Town’s policies affecting its employees. It is not intended to be and does not constitute a contract between the Town and any of its employees. The provisions of this handbook have been developed at the discretion of the Board of Selectmen (“the Board”) and, except for its policy of employment-at-will, may be amended or cancelled at any time, at the Town’s sole discretion, with or without notice.

While the Town hires individuals with the hope that the employment relationship will be long and mutually satisfying, all employees are employed at will, and the Town and employees are free to terminate the employment relationship at any time, with or without cause or notice. The exceptions to employment at will are those employees who are elected and those employees whose positions are required by statute and are thus entitled to a hearing and termination for cause. No representative of the Town may enter into an agreement with an employee guaranteeing employment for any specified period of time unless such agreement is set out in a writing signed and approved by the Board.

### **I. EMPLOYMENT AT THE TOWN**

#### **Nature Of Employment**

Policies set forth in this handbook are not intended to create a contract, nor are they to be construed to constitute contractual obligations of any kind or a contract of employment between the Town and any of its employees. The provisions of the handbook have been developed at the discretion of the Board and may be amended or cancelled at any time, at the Board’s sole discretion.

These provisions supersede all existing policies and practices and may not be amended or added to without the express written approval of the Board.

#### **Vacancies**

Notices of vacant positions shall be prepared setting forth a basic job description, any minimum requirements or education, skill and experience preferences, application steps to follow and a deadline for submitting application materials. Such notices shall affirm the Town of Durham’s commitment to being an equal employment opportunity employer and shall be disseminated in a manner that would reasonably be expected to bring notice of the vacancy to an adequate number of qualified applicants.

#### **Application for Employment**

Application for employment with the Town of Durham shall be made on a standard application form, available at Town Hall, together with a resume and such other forms as may be required.

## **Employee Relations**

The Town believes that the work conditions, wages, and benefits it offers to its employees are competitive with those offered by other employers in this area and in this industry. If employees have concerns about work conditions or compensation, they are strongly encouraged to voice these concerns openly and directly to their supervisors, managers or the Board.

Our experience has shown that when employees deal openly and directly with supervisors, the work environment can be excellent, communications can be clear, and attitudes can be positive.

## **Nepotism**

If a department head or supervisor is recommending the employment or is aware of an application for employment of an immediate family member, that department head or supervisor must disclose the relationship to the Hiring Authority. In the event that the Hiring Authority is recommending the employment, or is aware of an application for employment of an immediate family member, the Hiring Authority must disclose the relationship to the Board of Selectmen. "Immediate family member" shall be defined to mean "a spouse, domestic partner, significant other, parents, children, step-children, brothers, sisters, step-brothers, step-sisters, step-parents, brother-in-law, sister-in-law, mother-in-law, father-in-law, grandmother, grandfather, or other relatives living in the household of the employee.

## **Letter of Employment**

A newly hired employee may receive a letter of confirmation of employment from the Town which sets forth some of the terms and conditions of employment such as the employee's position and salary. This confirmation letter is not a contract of employment. In addition, the terms and conditions of employment set forth in the confirmation letter may be changed at any time at the discretion of the Town.

## **Employee Classifications**

Full-time employees are those who work twenty-eight (28) hours or more for a four (4) day work week or thirty-five (35) hours or more for a five (5) day workweek on a continuing basis. There will be a 90 day probationary period for all new employees. Full-time employees are eligible for Town benefits as described in this policy Section IV and Section V.

Part-time employees are those who work less than 28 hours per week on a regular basis. There will be a 90 day probationary period for all new part-time employees.

Temporary employees are those who have been hired for a particular project or a specified period of time. Temporary employees may work a full-time or part-time schedule and are not eligible for Town benefits.

## **Job Descriptions**

A central job description file is located in the Administrative Assistant's office. Written job descriptions are available for all positions within the Town. These descriptions serve primarily to identify essential job functions and principal additional duties. The Town welcomes employee input for the purpose of keeping job descriptions current.

## **Performance Evaluations**

New employees, both full time and part time, will receive a probationary performance review after the first ninety (90) days of employment. Another performance review will be conducted after six (6) months of employment. Thereafter, performance evaluations will take place annually at the October Selectmen's meeting or on the review schedule established by the Town unless special circumstances – such as a promotion or transfer – require adjustments to this cycle.

The performance evaluation provides an opportunity for the employee and supervisor to review the employee's performance. During the evaluation, relevant performance factors are evaluated, performance goals for the next year are established, and career goals are discussed. The supervisor will complete a written performance evaluation form, which the employee is expected to sign, acknowledging that he or she has reviewed the evaluation. In most instances, a performance evaluation will be conducted before an employee may receive a salary increase.

## **Discipline**

This policy is intended for guidance only and does not entitle employees to progressive discipline or any other disciplinary procedures in any particular case. The facts of each particular situation will be unique and may, therefore, lead to different responses by the Town. This discipline policy does not alter the at-will nature of any employee's employment.

When employees have engaged in unsatisfactory conduct that does not result in immediate discharge, the Town may follow progressive discipline procedures. Certain types of misconduct are sufficiently serious that progressive discipline will not be followed. In such cases, the Town may choose to discharge the employee for the first offense.

Supervisory personnel are responsible for documenting disciplinary issues and measures, putting such documentation in the appropriate personnel file, and informing the Board of same.

## **II. EQUAL EMPLOYMENT POLICIES**

### **Equal Employment Issues**

The Town is committed to providing equal opportunity in employment to all employees and applicants for employment. No employee or applicant shall be discriminated against on the basis of race, religion, color, sex, age, national origin, veteran status, disability, sexual

orientation, whistleblowing, or any other characteristic protected by law. Any employee who believes he or she has been the victim of employment discrimination based on any of these factors should report the matter immediately to their supervisor or Durham Fire Chief or, if uncomfortable or inappropriate for any reason, to the Administrative Assistant to the Board or Chair of the Board.

Employees with questions or concerns about any type of discrimination in the workplace are encouraged to bring these issues to the attention of their immediate supervisor, the Durham Fire Chief, the Administrative Assistant to the Board, or Chair of the Board. Employees can raise concerns and make reports without fear of retaliation. Anyone found to be engaging in any type of discrimination may be subject to disciplinary action, up to and including termination.

The Town prohibits a variety of behaviors in the workplace whether or not those behaviors are illegal. Consequently, the fact that certain behaviors are discouraged or prohibited at the Town does not necessarily mean that those behaviors are illegal. The Town wants its personnel to treat each other well, whether the law requires it or not.

**A. Policy Statement**

The Town is proud of its tradition of maintaining a work environment that encourages respect for the dignity of each individual. Harassment based on race, religion, color, sex, age, national origin, veteran status, disability, sexual orientation, whistleblowing, or any other characteristic protected by law by anyone, whether in a Town building, in work assignments outside the office, at Town-sponsored social functions or in any employment related context, or retaliation against anyone who complains about harassment, will not be tolerated whether or not it is illegal.

While in some cases individuals may make comments or jokes or personal advances without intending harm, such actions can be unwanted, threatening, and perceived as harassment. Stopping harassment in its many forms requires an increased awareness by everyone at the Town of the impact that such actions may have on others.

**B. Definition Of Harassment**

Harassment on the basis of sex is a violation of Section 4572 of the Maine Human Rights Act. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature or targeted at someone because of his or her gender constitute sexual harassment when:

1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Prohibited harassment can also include harassment based on race, religion, color, age, national origin, disability, whistleblowing, or sexual orientation. A hostile environment can be comprised of various types of conduct. The fact that a situation may feel “hostile” does not mean that it is illegal. Examples of what the Town would like to be told about so that it can respond to whatever the problem may be include offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance. The bottom line is that harassment is not permitted at the Town whether it is illegal or not. It is also not permitted by Town employees towards members of the public.

The following is a partial list of unwelcome behavior that may be considered sexual harassment:

- Unwelcome sexual jokes, language, epithets, advances, or propositions;
- Written or oral abuse of a sexual nature, or sexually degrading or vulgar words to describe an individual;
- The display of sexually suggestive objects, pictures, posters, or cartoons;
- Unwelcome comments about an individual’s body, sexual prowess, or sexual deficiencies;
- Asking questions about sexual conduct;
- Harassment consistently targeted at only one sex, even if the content of the verbal abuse is not sexual;
- Unwelcome touching, leering, whistling, brushing against the body, or suggestive, insulting, or obscene comments or gestures;
- Demanding sexual favors in exchange for favorable reviews, assignments, promotions, continued employment or promises of the same.

Similar conduct based on bias against a protected characteristic other than gender is illustrated by the above examples as well. For example, unwelcome comments about a person’s disability or obscene comments targeted at a particular race might be considered disability harassment or racial harassment. The bottom line is for everyone at the Town to think about whether statements and conduct, in addition to being truthful, are also necessary and kind.

### **C. Individuals Covered Under The Policy**

This harassment policy covers all employees, including elected officials and positions required by statute. When individuals are subject to harassment from third parties (*e.g.*, potential and former employees, outside contractors, vendors, members of the public), the Town will take whatever appropriate steps that it can to eliminate the problem.

## **D. Procedures in Response to Harassment**

It is the goal of this policy and its procedures to create an environment in which people who have experienced harassment or who have concerns about harassment issues feel free to discuss those situations or concerns with someone in a position to do something about them, secure in the knowledge that they will be listened to and treated with respect. All information will be handled with the highest degree of confidentiality possible under the circumstances and with due regard for the rights and wishes of all parties, recognizing that there are circumstances where complete confidentiality may not be possible.

### **Option 1: Mediation**

An individual who wants help in handling a harassment problem can contact one of the Town's harassment mediators. They are the Administrative Assistant and Rebecca Webber, Esq. The individual will have a private meeting with that mediator, at which time he or she can discuss the situation. Mediation can take a variety of forms. For example, the individual may wish to have the mediator join him or her in a meeting with the alleged offender. Alternatively, the individual may wish that the mediator act as an intermediary in dealing with the alleged offender without the individual present. In said instances, the form of mediation used shall be selected by the mediator, with due consideration given to the wishes of the individual involved. If the complainant is dissatisfied with the result of the mediation, he or she may file a complaint under Option 2.

### **Option 2: Complaints**

#### **1. Investigation**

In those instances where an individual decides that he or she wishes the Town to take action, the individual, or a mediator acting on behalf of the individual, should notify the Administrative Assistant or, in the absence of the Administrative Assistant, the Chairman of the Board. The person contacted will determine whether there is sufficient reason to undertake an investigation.

If that person determines that an investigation is warranted, a harassment investigator shall then be appointed, who may be a man or a woman and may be a person inside or outside the Town. The investigator will meet with and make a record of the individual's statement of events. Specifically, the investigator will request information which may include the following: a description of the incident(s), the name of the alleged offender, times, locations, specific words/actions, and the name of any witnesses to the incident(s). The investigator's notes will be for the investigator's own use during the investigation. An individual making a complaint may bring a friend or colleague from within the Town to the meeting, but may not be represented by counsel.

The harassment investigator will meet privately with the alleged offender. The alleged offender will be informed of the allegations and will have the opportunity to respond to them, including by submitting a written statement. The alleged offender may also submit the names of witnesses. The alleged offender may bring a friend or colleague from within the Town to the meeting, but may not be represented by counsel. Each party will have an opportunity to respond

to the other party's statement of events. Witnesses will be interviewed at the discretion of the investigator.

Any witnesses that the investigator decides should be contacted will be interviewed privately. Neither the individual making the complaint nor the alleged offender will be present at witness interviews.

Upon completion of the investigation, the harassment investigator will report the findings to the person who made the appointment, who will review the findings with the Administrative Assistant. This review may result in a plan of action being formulated or, if necessary, the matter may be referred back to the investigator for further investigation and/or factfinding. When the findings as originally reported or as amended are accepted by the partners, the person making the complaint and the alleged offender will be notified of the action to be taken.

## **2. Confidentiality**

All actions taken to investigate and resolve complaints through this procedure shall be conducted with as much confidentiality as possible without compromising the thoroughness of the investigation or the rights of the alleged offender. The harassment investigators will not discuss the complaint or the investigation with anyone who is not directly involved in the investigation.

## **3. Resolving the Complaint**

The Administrative Assistant or Chairman of the Board shall take appropriate action to resolve the complaint. If the findings reveal that an individual has engaged in actions or conduct constituting harassment, appropriate disciplinary action shall be taken. The disciplinary action will depend on the seriousness of the violation.

## **E. Protection Against Retaliation**

Retaliation is a serious violation of this policy and should be reported immediately to the employee's supervisor or the Chair of the Board. Retaliation against any individual for reporting harassment, whether by the harasser or from another source, will not be tolerated and will be treated with the same strict discipline as harassment itself. Each offense will be investigated and sanctioned separately.

Individuals who are not themselves complainants, but who assist in a harassment investigation, will also be protected from retaliation under the policy.

Pursuant to 5 M.R.S.A. § 4553(10)(D), it is illegal to punish or penalize, or attempt to punish or penalize, any person for seeking to exercise any of the civil rights set out in the Maine Human Rights Act or for complaining of a violation of that Act or for testifying in a proceeding brought under that Act.



**F. Maine Human Rights Commission**

Employees who have been harassed have a right to file a claim with the Maine Human Rights Commission. Although employees may also file a complaint with a court, by-passing the Commission may limit the remedies available. The Commission will conduct an investigation to determine if harassment occurred. An employee may initiate the complaint process with the Commission by calling (207) 624-6290 or by writing to:

**The Maine Human Rights Commission  
State House Station 51  
Augusta, ME 04333-0051**

**III. WORKPLACE POLICIES**

**Relations with Members of the Public**

It is the policy of the Town to provide its citizens with the best possible service. Employees are expected to treat citizens in a courteous, respectful manner at all times.

- A. The employees are prohibited from engaging in any conduct that could reflect unfavorably upon the Town or disrupt the efficient operation of the administration of the Town. Town employees must avoid any action that might result in or create the impression of using public employment for private gain, giving preferential treatment to any person, or exercising partiality in conducting Town business.
- B. Cooperation of all employees is essential to efficiency. Our citizens are entitled to the best service we can give them. Cooperation, courtesy, and responsibility are the key elements of good service and are expected of Town employees.
- C. Ethical guidelines:
  - 1. Receipt of Gifts: A Town employee is prohibited from soliciting or accepting any gift, or any other item of monetary value from any person, within or outside Town employment, whose interests may be affected by the employee's performance or nonperformance of his/her official duties.
  - 2. Use of Town-Owned Equipment: The use of Town-owned equipment for personal use, without prior Board approval, is strictly prohibited.
  - 3. Business Activities and Solicitations: No employee shall engage in any business other than his/her regular Town duties during work hours (not including lunch hours). Employees may not use Town facilities or equipment or property to conduct or advance anything other than Town business and Town interests.
  - 4. Confidentiality: Employees may not use privileged or confidential information for

their private advantage or provide such information to friends or acquaintances. Each employee is charged with the responsibility of releasing only information which is required under the "right to know" law (1 M.R.S.A. §§ 401-410). If an employee is unsure whether information should be released, the employee should speak with the Administrative Assistant to the Board before releasing and to the Board if needed.

### **Attendance**

Employees are expected to arrive at the job promptly and to be prepared for their assignments at the beginning of the workday. Employees who will be absent from work are expected to call their immediate supervisor no later than two (2) hours before the beginning of the workday or as soon as possible under the circumstances.

Employees with a record of excessive tardiness or absenteeism or with a pattern of absenteeism prior to days off will be subject to disciplinary action. Employees absent from work for three or more consecutive days without notifying their immediate supervisor will be deemed to have voluntarily resigned.

### **OVERTIME:**

This section does not apply to Exempt Employees. For purposes of this section, "hours worked" shall mean only hours actually worked.

When circumstances warrant, overtime work shall be required. For full-time employees, overtime will be paid for all hours over 40 hours per week. All hours actually worked over forty hours in a regular week shall be compensated at one and one-half (1 ½) times regular rate of the employee. Peak workload periods may result in the need to require employees to work a reasonable amount of overtime.

Any and all overtime requires prior authorization of the respective Department Head.

Sick leave, vacation time, holidays, jury duty, bereavement and other personal time off from work shall not be considered hours worked for purposes of calculating overtime compensation.

Employees working overtime may be compensated with time off in lieu of receiving overtime pay ("comp time"). Comp time shall be earned at the rate of one and one-half (1 ½) times the normal rate after forty hours worked. The maximum amount of comp time that may be accrued under this policy shall be no more than forty hours. If an employee works overtime and has accrued forty hours of comp time, they shall receive overtime pay as set forth herein.

### **CALL-OUTS: (Public Works)**

Public Works Department personnel will be paid a minimum of 3 hours at an employee's regular rate of pay for call-back for highway related work. Early call-in time within 2 hours of the regularly scheduled start time shall not be considered a call-in.

## **Drug And Alcohol Policy**

The Town is concerned about protecting the safety, health, and well-being of its employees, citizens, and all people who come into contact with its employees or use its services. The Town recognizes that drug and alcohol abuse pose a direct and significant threat to this goal, and to the goal of a productive and efficient working environment in which all employees have an opportunity to reach their full potential. The Town is committed to providing a drug-free work place and employing a drug-free work force.

While on Town premises and while conducting business-related activities off Town premises, no employee may use, possess, distribute, sell, or be under the influence of alcohol or illegal drugs. Even when off Town premises and off work time, no Town employee may use, possess, distribute, sell, or be under the influence of any illegal drug. The Town does not want to be associated with such activity or have employees who use illegal drugs. The same is true of the illegal use of alcohol, whether driving while under the influence or furnishing alcohol to a minor. The Town also prohibits the use of illegal drugs or alcohol off the job that impairs performance on the job.

The following guidelines are also part of this policy:

1. The Town reserves the right to conduct searches of employees' lockers, desks, Town-owned vehicles, or any other location on Town property. The Town reserves the right to terminate an employee for refusing to submit to such a search even for a first offense. Employees should not have an expectation of privacy with respect to searches for illegal drugs on Town property or in Town owned vehicles.
2. The legal use of prescribed drugs is permitted on the job if it does not impair an employee's ability to perform the essential functions of the job and if used in a safe manner that does not endanger other individuals in the workplace. Employees may be asked to provide a doctor's certification regarding safety and the ability to perform the essential functions of the job. Each employee must consult with his or her health care provider to determine whether the use of a prescribed medication could lead to impairment. Medicines brought to work must be brought in the original prescription container or over-the-counter container.

Violations of this policy may lead to disciplinary action, up to and including immediate termination of employment, and/or required participation in a substance abuse rehabilitation or treatment program. Such violations may also have legal consequences.

Employees with questions on this policy or issues related to drug or alcohol use in the workplace should raise their concerns with their supervisor or the Chair of the Board without fear of reprisal.

## Confidentiality

In the course of their work, employees may learn or come into contact with confidential information of the Town or its citizens, or others, disclosure of which would be harmful to the Town or others. Employees are strictly prohibited from disclosing such confidential information 1) to anyone not employed by the Town; 2) for a purpose other than Town business; or 3) to anyone without a need to know, without the written consent of the Board in each instance.

Confidential information means any and all information, other than information that at any time becomes lawfully available to the general public, relating to personnel matters of the Town or any citizens of the Town, including, without limitation, any and all personnel and financial data; medical records and reports of municipal ambulance and rescue units and other emergency medical service units; juvenile records; personally identifying information concerning minors that is obtained or maintained by the Town in providing recreational or non-mandatory educational programs or services; records describing security plans, security procedures, or risk assessments prepared for the purpose of preventing acts of terrorism; records that have been designated confidential by statute; records containing private information such as social security numbers and dates of birth; records or information describing the architecture, design, access authentication, encryption, or security of information technology infrastructure or systems; material prepared for and used specifically and exclusively in preparation for negotiations in collective bargaining; statements made during an executive session; communications with the Town's attorney(s) concerning the legal rights and duties of the Town, pending or contemplated litigation, settlement offers, or matters covered by the attorney-client privilege, or matters where premature general public knowledge would place the Town at a substantial disadvantage; and any other matters designated confidential by statute or identified as exempt from the Freedom of Access Act.

All such confidential information will at all times be the property of the Town. Upon termination of employment, and at any other time upon request of the Town, an employee shall promptly deliver to the Town any and all physical records in the employee's possession or control that contain confidential information of the Town, whether those records were supplied to the employee or prepared by the employee and in whatever form they take.

## Use Of Computers And Email

The Town's computer system is for Town business use, though limited personal use is permitted so long as it is not excessive and does not interfere with business needs or operations. Employees must remember that the computer system is a network of business equipment, it contains confidential Town, citizen, and employee information that must be protected, and it is vulnerable to outside viruses and other risks if those who use it are not careful. This policy applies at all times, regardless of the time of day or whether the Town is open.

The computers, including email and Internet access systems and hardware, are the property of the Town. All passwords and codes and all email and Internet messages and attachments composed, sent, or received are the property of the Town. Documents created and/or saved on the Town computer system are the property of the Town. ***Consequently, employees should not consider information on the system private, including email messages, content, attachments, and web sites visited.*** Incoming and outgoing messages and attachments are subject to being

accessed, reviewed, or monitored at the sole discretion of the Town at any time, with or without notice, and notwithstanding any password. The Town also reserves the right to track and monitor employee use of the Internet, including web sites visited and files downloaded by the employee.

Because the computer system is for Town use, but also because of our duty to protect confidential information, no one other than an employee is allowed to use the Town computers at any time without prior Board approval. In addition, employees who do not use the computer system for any part of their job responsibilities should not be using the computer system at any time. For those employees who do need to use the computer system for their job responsibilities, they must limit their access to those portions of the system necessary for performing their work, unless otherwise authorized by the Board.

Because of the threat of viruses and other risks posed by Internet use, as well as a variety of civil and criminal laws, the following rules also apply:

- The Town computers, including emails and Internet access, are not to be used to create any offensive or disruptive messages. Among those which are considered offensive are messages or materials that contain sexual implications, racial or ethnic slurs, or other comments that offensively address someone's age, sex, sexual orientation, religion, national origin, ancestry, disability, or any other characteristic protected by the Maine Human Rights Act. In addition, the system must not be used to communicate other improper messages; for example, messages or material that is defamatory, obscene, or otherwise inappropriate. When messages are sent by anyone in the Town office, they announce to the world that they issue from the Town. What is sent thus speaks for our Town and affects its image. What is sent may also create liability on the part of the Town. The Town must therefore regulate how its computers are used regardless of how capable, professional, and responsible its employees are.
- The Town computers must not be used to visit sexually explicit, offensive, or otherwise inappropriate web sites or engage in computer games or gambling activities.
- The Town computers may not be used to violate any law, regulation, or the Town policy.
- In order to avoid violating the laws protecting copyrighted materials, trade secrets, proprietary information, client confidences, or similar materials, as well as to avoid the danger of viruses, spam, and other computer threats, the utmost care shall be used in sending or receiving (downloading and opening attachments) materials via the Internet.
- The Town computers may not be used to create, send, or forward "chain letter" emails.
- The Town computers may not be used by any former employee without prior management authorization.

### **Cell phone use policy**

- (a) Purpose. The purpose of this policy is to promote a safe and productive work environment and increase public safety. This policy applies to both incoming and outgoing cellular calls.
- (b) Scope. This policy applies to all employees.
- (c) Policy and procedure.
  - (1) Employees shall not violate the state statute regarding the use of any electronic multi-media devices.
  - (2) Employees may not text or use any keypads while operating a vehicle or motorized equipment.
  - (3) Employees may carry and use personal cell phones while at work on a sporadic basis. If employee use of a personal cell phone causes disruptions or loss in productivity, the employee may become subject to disciplinary action per personnel policy.
  - (4) If an employee is operating a company vehicle or motorized equipment and receives a call on a cell phone, the employee may answer, but shall ask the caller to hold, put the phone down and pull to the side of the roadway, into a parking lot or other safe location to respond to the call. Use of a vehicle's blue tooth capability is acceptable for work calls only. Failure to follow this policy may result in disciplinary action per personnel policy.

**Policy on Recording:** Trust amongst employees is a crucial part of having a harmonious and productive working environment. While at work, employees are prohibited from secretly taping/recording fellow employees or supervisors without their express prior knowledge and permission in writing. Not adhering to this policy will result in disciplinary action per personnel policy.

## **IV. EMPLOYEE BENEFIT PROGRAMS**

### **Employee Benefits**

Eligible employees at the Town are provided a wide range of benefits. The following benefit programs are available to eligible employees:

- ❖ Bereavement Leave
- ❖ Dental Insurance
- ❖ Family Medical Leave
- ❖ Health Insurance
- ❖ AFLAC
- ❖ Income Protection Plan
- ❖ Holidays
- ❖ Vacation Benefits
- ❖ Maine State Retirement benefits

For determination of pay for holidays, vacation, sick leave, paid leaves, changes in work week schedules, salaried employees' pay is subdivided by Paid-Day. A Paid-Day is considered between 7 and 10 hours per day with an average of not greater than 8 hours per scheduled day in anyone week. A Paid-Day is determined by dividing the annual salary by the number of pay weeks in the year times the number of days worked per week. For example, assuming that a salaried employee who is paid \$30,000 annually and works four days per week, the Paid-Day is determined as follows:  $\$30,000 / (52 \times 4) = \$144.23$ , a Paid-Day.

### **Vacation Benefits**

The Town provides vacation benefits to all full-time employees. Vacation time accrues at the following rates:

Employees who are regularly scheduled to work 40 hours per week shall accrue vacation hours at the following rates:

1st year of employment: 3.334 hours/month (40 hours per year)

2nd through 4th years of employment: 6.667 hours/month (80 hours per year)

5th through 9th years of employment: 10.0 hours/month (120 hours per year)

10th year of employment: 10.667 hours/month (128 hours per year)

11th year of employment: 11.333 hours/month (136 hours per year)

12th year of employment: 12.0 hours/month (144 hours per year)

13th year of employment: 12.6667 hours/month (152 hours per year)

14th year employment and beyond: 13.333 hours/month (160 hours per year)

Employees who are regularly scheduled to work less than 40 hours per week shall have their monthly accrual rate prorated accordingly, based on a standard 40-hour work week. For example, an employee who is regularly scheduled to work 36 hours per week shall accrue 3 hours/month in their first year of employment ( $3.33 \times 36 \div 40$ ).

The length of eligible service is calculated on the basis of a "benefit year." This is the 12-month period that begins when the employee starts to earn vacation time. Consequently, the benefit year begins on the employee's date of hire but vacation time is not actually earned or accrued until the 90-calendar day probationary period is over. At that time, vacation will be earned/accrued retroactive to the employee's date of hire. No vacation will be paid upon separation if the employee is terminated for any reason within the 90-day probationary period.

An employee's benefit year may be extended for any significant leave of absence except military leave of absence. Military leave has no effect on this calculation.

It is recognized that there are occasions where an employee would like or need to take more vacation time than the employee is entitled to during the course of the employee's year or has yet accrued. In such circumstances, the employee may petition the Board of Selectmen to permit the "borrowing" of vacation time not yet accrued. Whether or not such permission is granted and the extent to which such borrowing will be permitted is the sole prerogative of the Board of Selectmen. Should an employee fail to accrue the "borrowed" time, for whatever reason, reimbursement to the Town is required. It is expected that any employee who "borrows" unaccrued vacation time will sign an agreement that, in the event that the employee should fail to accrue the "borrowed" time, the Town may recover any reimbursement due from wages or other sums due the employee from the Town.

To take a vacation, employees must request advance approval. Vacation requests under two (2) weeks may be approved by the Department Head. Vacation requests of two (2) weeks and over will need approval from the Board of Selectmen. Vacation requests by the Town Administrator, Fire Chief, Road Commissioner or Code Enforcement Officer under two (2) weeks may be approved by the Selectmen liaison for that department. Vacation requests by the Town Administrator, Fire Chief, Road Commissioner or Code Enforcement Officer of two (2) weeks or more will need approval from the Board of Selectmen. Requests will be reviewed based on a number of factors, including Town needs and staffing requirements, and will be handled on a first come first served basis.

Vacation time is paid at the employee's base pay rate at the time of vacation. It does not include overtime or any special forms of compensation such as incentives, commissions, bonuses, or shift differentials. Employees will not be permitted to take a "paid working vacation".

Employees are encouraged to use vacation time for rest, relaxation, and personal pursuits. A maximum accrual of 128 hours will be set for all employees working a 32 hour, 4-day workweek. A maximum accrual of 160 hours will be set for all employees working a 40 hour, 4 or 5-day workweek. There will be no pay in lieu of vacation time lost due to maximum accrual.

Vacation time may be used in lieu of sick time if the employee has no accrued sick time available.

Vacation time accrued as of the date of separation will be paid at employee's base rate at time of separation.

### **Sick Leave**

The purpose of sick leave for our employees is to enable them to protect against the financial burdens imposed by frequent or prolonged illness. For that reason, each regular full-time employee shall be entitled to sick leave accumulated at the rate of one (1) day per month of employment. For purposes of this section, the first month of an employee's service shall be counted as a full month of service if employment begins on or before the 15<sup>th</sup> day of the month. The employee must work thirteen (13) or more full work days in any month in order to earn sick leave for that month. Sick leave is accrued during the probationary period.



Full-time employees shall be eligible to use sick leave after thirty (30) days of service with the Town. Absences for a part of a day that are chargeable to sick leave based on the number of hours absent.

Possibly abuses of sick time shall be brought to the attention of the Select Board for investigation. Abuse of the sick leave privilege shall be cause for discipline. Regular sick time on Fridays and Mondays and sick time immediately before or after holiday time will at a minimum trigger attention and be grounds for further investigation.

Upon termination of employment, an employee will not be paid for accrued sick leave.

Sick leave may be accumulated to a maximum of sixty (60) days or four hundred and eighty (480) hours.

An employee is entitled to use accumulated sick leave for (1) illness of the employee (2) illness of the spouse or domestic partner of the employee (3) illness of a child of the employee (4) illness of a parent of the employee. Sick leave may also be used for visits to health care providers such as dental or optical examinations or physical examinations or check-ups of the employee and any family member. It is assumed that such visits will be scheduled outside of work hours whenever it is reasonably practicable to do so.

The benefits payable for a day of sick leave shall be the same as that employee's rate of pay at the time that the sick leave is taken.

The employee must furnish a physician's note that the employee is fit to return to duty after more than three consecutive workdays of sick leave. After five consecutive workdays, the employee shall give notice to the Board of the anticipated length of absence for the Board's review.

In the event an employee is without any accrued sick time and the need to be absent from Town work due to those circumstances described herein occurs, the employee may petition the Board of Selectmen to (1) take such time as unpaid leave or (2) "borrow" a specified amount of unaccrued sick leave time. An employee may voluntarily donate sick time to another employee who is on an extended leave of absence due to illness of the employee or a family member if the employee has no accrued sick or vacation time. The decision as to whether or not to permit such unpaid leave, donation or borrowing is the sole prerogative of the Board. If an employee is permitted to "borrow" and the employee fails to accrue the sick time, for whatever reason, reimbursement to the Town is required. It is expected that any employee who "borrows" unaccrued sick time will sign an agreement that, in the event that the employee should fail to accrue the "borrowed" time, the Town may recover any reimbursement due from wages or other sums due the employee from the Town.

### **Family Care Act Leave**

Under Maine's Family Care Act, employees are allowed to use up to 40 hours of accrued and unused "paid leave" for the care of an "immediate family member" who is ill. This leave is

available regardless of how long an employee has worked at the Town. This kind of leave is available only if the employee has paid leave that they have in fact accrued. (For example, if an employee only has five days of accrued paid leave, they can take only five days of Family Care Act leave.) Paid leave is defined as vacation, sick, or other compensated time. Paid leave does not include paid short-term or long-term disability. An immediate family member is defined as a child, step-child, spouse, domestic partner, parent, parent-in-law, step-parent in law, or other relatives living in the household of the employee.

If an employee needs to take leave under this provision to provide care for an immediate family member who is ill, they must notify their supervisor as soon as they are aware of the need for such time off. Employees must also use the same procedure as if they were calling in sick: employees must notify their direct supervisor before the scheduled start of their workday, if possible. The direct supervisor must also be contacted and provided an update for each additional day of absence. If an employee needs to be absent for three or more consecutive days, a physician's statement may be required to verify the illness and its beginning and expected ending dates.

This provision does not provide more leave but permits employees to use accrued paid time to care for an immediate family member who is ill.

### **Funeral Leave**

Each full-time employee is entitled to the following paid funeral leave: three (3) days for the death of a spouse, domestic partner, child, step-child, parent, step-parent, brother or sister, step-brother or step-sister, father-in-law, mother-in-law, step-father-in-law, step-mother-in-law, grandchild, grandparent of the employee or a spouse, brother-in-law and sister-in-law, or any other relatives residing in the employees household. Additional time may be taken as vacation, sick leave or unpaid leave of absence with permission from the Board of Selectmen.

### **Holidays**

All full-time employees are entitled to the following paid holidays if they fall on a day when the Town would have been open (or in the case when a holiday falling on a Saturday or a Sunday is celebrated nationally on the preceding Friday or the following Monday.)

New Year's Day  
Martin Luther King Day  
President's Day  
Patriot's Day  
Memorial Day  
4th of July  
Labor Day  
Columbus Day  
Veteran's Day  
Thanksgiving  
The Friday after Thanksgiving  
The Day before Christmas\*

## Christmas Day

\*When Christmas Day falls on a Tuesday through Saturday, inclusive, the Town will be closed the preceding day as well.

The Selectmen reserve the right to modify holiday schedules when the holiday lands on a weekend or a day when the office is regularly closed.

A person on a leave of absence without pay shall not be entitled to holiday pay. Holiday pay is to be calculated based on the number of hours that employee would have worked had they worked on that day. When occasion warrants, employees may be required to work whole or part of a holiday. Employees working a holiday shall receive straight time pay plus their applicable holiday pay.

If the holiday falls within a vacation period, it is not counted as part of the annual vacation allowance; an additional day of vacation may be added to the earned vacation time.

Whenever it is required by the Town that an employee work on a holiday, the employee shall be paid at the rate of one and one-half (1 ½) times his regular hourly rate of pay for actual time worked, plus holiday pay at his regular base rate of pay, exclusive of salaried or clerical employees.

### **Leave of Absence**

Any employee requesting a leave of absence shall direct that request to their immediate supervisor. For any leave of absence over thirty (30) days, the Board of Selectmen will be notified by the supervisor.

### **Domestic Violence Leave**

The Town will grant reasonable and necessary leave from work, with or without pay, for an employee to:

- A. Prepare for and attend court proceedings;
- B. Receive medical treatment or attend to medical treatment for a victim who is the employee's daughter, step-daughter, son, step-son, parent or spouse; or
- C. Obtain necessary services to remedy a crisis caused by domestic violence, sexual assault or stalking.

The leave must be needed because the employee or the employee's daughter, step-daughter, son, step-son, parent, or spouse is a victim of violence, assault, sexual assaults under Title 17-A, sections 251 to 258, stalking, or any act that would support an order for protection under Title 19-A, sections 4001 to 4014. The Town will not punish or retaliate against an employee or deprive an employee of pay or benefits for requesting domestic violence leave.

The Town may require an employee to provide reasonable documentation of the family relationship, which may include a statement from the employee, a birth certificate, a court document or similar documents.

Leave may not be granted if:

- A. The Town would sustain undue hardship from the employee's absence;
- B. The request for leave is not communicated to the Administrative Assistant within a reasonable time under the circumstances; or
- C. The requested leave is impractical, unreasonable or unnecessary based on the facts known to the Town at that time.

### **Winter Operations (Public Works Staff)**

One of the primary functions of the Town of Durham Public Works Department is Winter Maintenance and maintaining safe travel for the public and emergency vehicles. All Public Works Department employees are considered to be on call and shall be available whenever the possibility for inclement weather exists from November 1<sup>st</sup> through May 1<sup>st</sup>. All public works employees are expected to be ready to report to the garage during all storm events unless the Road Commissioner has approved previous arrangements. The Road Commissioner reserves the right to designate on call personnel or develop a weekly on call rotation for periods when there is no inclement weather expected. If this option is initiated, the Road Commissioner will contact Durham Fire & Rescue and Androscoggin County Sheriff's Office to inform them of the on-call employee. The designated employee will be issued the Public Works Department beeper for the duration of the on-call duty.

In storm events and post storm, if situations so warrant, all personnel shall remain on duty until released by the Road Commissioner.

Failure to comply with this section of the policy may result in suspension or termination.

### **Snow Policy (Town Office Staff)**

Any employee who, for any reason, prefers not to report for work due to a storm shall advise their supervisor of that fact and may take the day as a vacation day if the employee so desires and has vacation time accrued.

If a decision is made after the Town Office has opened to close the Town office due to storm conditions, those employees who reported for work that day will receive compensation for a full day's work. If the employee takes the day as a sick day or a vacation day, s/he will be charged for the full day, regardless of how long the Town office is open.

Employees who elect to report for work but who are delayed in arriving by 9 a.m. due solely to traveling conditions may be excused from lost time or being docked for the time not worked upon application to the Administrative Assistant. The safety of our employees is

paramount and the Town would rather have staff take some extra time to arrive safely than to hurry and not arrive at all.

A snow day will be determined by the Administrative Assistant and Chairman of the Board. Should the Chairman not be available, any other Selectman may make the decision with the Administrative Assistant.

### **Time/Leave Records**

All employees will be issued timesheets to record their working hours on a weekly basis. Timesheets must be accurate, filled out and signed only by the employee, and turned into the Administrative Assistant with the weekly payroll requests. Please remember that your timesheet is a personal record of your hours worked, vacation time used, sick time used, overtime/compensatory time earned and used. It becomes the legal record of your employment. The timesheets will be used to complete the payroll and to determine overtime compensation, if applicable. Falsifying one's own time or that of another employee is strictly prohibited and may be grounds for immediate dismissal.

The Administrative Assistant shall maintain records pertaining to sick leave, annual leave, and compensatory time, and shall enter that information on each employee's leave record. An employee's leave record may be inspected by him/her at any reasonable time during normal working hours.

## **V. BENEFITS IN ADDITION TO TIME OFF**

### **Health Insurance**

The Town provides health benefits for its full-time employees. A summary of these benefits can be obtained from the Administrative Assistant. Full-time employees become entitled to health insurance benefits on the first day of the month after hire. Participating employees and the Town will share the cost of coverage at percentages and levels to be determined by the Board of Selectmen on an annual basis.

In the event that an employee who is eligible for health insurance from the Town is also eligible to be covered for health insurance under the health policy of a spouse, or other family member, said employee upon making the election to be covered under said outside policy shall be entitled to \$1,200 per year payable to said employee at a rate of \$100 per month. Payments shall commence at the time that a premium saving is realized. Employee must provide proof of coverage to the Administrative Assistant on a yearly basis. The benefit is not retroactive and the buy out is available as an option only from December 1, 2011 forward.

### **Retirement Pay**

The Town is a participating district in the Maine State Retirement System for the benefit of all full-time employees.

### **Dental Insurance**

Full-time employees, on the first day of the month after hire, shall be entitled to single, single with dependents, or family dental insurance under the Maine Municipal Employees Health Trust group plan. The cost of this coverage shall be shared by the Town and employee. The respective shares shall be determined annually.

### **USERRA**

The Uniformed Services Employment and Reemployment Rights Act of 1994 provides for continuation of health benefit coverage. If the service is for 30 or fewer days, the employee need only pay the normal employee share of any premium. For longer periods, an employee may elect to continue health plan coverage for up to 24 months after the absence begins, paying up to 102% of the full premium for the coverage (similar to COBRA).

Depending on the length of service, an employee must submit an application for reemployment within a certain number of days. For service of up to 30 consecutive days, the employee must report back to work within a certain time period. For more detail on the requirements applicable to reinstatement, please check with the Administrative Assistant.

On return from military leave of absence, the employee will be reinstated as required by law. USERRA requires prompt reinstatement, accrued seniority, training or other accommodations, and special protections against discharge, except for cause. Adjustments and exceptions to this policy may be made as circumstances require.

### **Life Insurance**

The Town provides life insurance to its full-time employees. Full-time employees become eligible on the first day of the month after hire. The Town pays 100% of the premium up to a cap of \$200 per year. Percentages and levels of coverage will be determined by the Selectmen each year.

### **Mileage Reimbursement**

On those occasions when it is necessary for an employee, elected, or appointed official to utilize their personal vehicle for office business, the reimbursement for the mileage accrued shall be handled in the following manner:

- A. Authorization for personal car use for routine Town business will be at the discretion of the Board of Selectmen.
- B. All out-of-town travel over 30 miles round trip for employees must be authorized by the Board of Selectmen in writing in advance of the use for which reimbursement is sought.
- C. Travel costs between individual's home and principal point of employment will not be reimbursed.

- D. Costs such as tolls and parking fees are also reimbursable with receipt.
- E. Reimbursement will be made upon the submission of reasonably substantiated vouchers. Distances shall be determined by speedometer reading and any substantial deviations from distances shown on highway mileage guides must be justified. All authorized personal car use shall be computed from the Durham Town Office, Route 9, Durham, Maine or the shortest route.
- F. Request for reimbursement must be submitted on a monthly basis. Any outstanding expenses for the year must be submitted for payment before the last Treasurer's warrant for the calendar year ending December 31<sup>st</sup>.
- G. Mileage will be reimbursed at the rate established by the IRS.

**Jury Duty**

The Town shall pay to an employee called for jury duty the difference between his/her regular pay and the juror's pay provided the employee presents an official statement of jury pay received. In the case of fire department personnel subpoenaed to court due to their Town Fire/EMS duties, hours will be paid at fire department wages.

Adopted this 22nd day of November, 2011.

DURHAM BOARD OF SELECTMEN

\_\_\_\_\_/s/\_\_\_\_\_  
Jeffrey Wakeman, Chairman

\_\_\_\_\_/s/\_\_\_\_\_  
Deborah Larrabee, Vice-Chairman

\_\_\_\_\_/s/\_\_\_\_\_  
Philip Gilikson, Selectman

\_\_\_\_\_/s/\_\_\_\_\_  
Barry Baldwin, Selectman

Excused from meeting  
\_\_\_\_\_  
Kirk Heald, Selectman