



# TOWN OF MANCHESTER

## PERSONNEL POLICY

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# **Town Departments and Commissions**

**Board of Water Commissioners**

**Fire Department**

**Finance**

**Human Resources/Administrative Services**

**Parks and Recreation**

**Planning & Zoning**

**Police Department**

**Public Works**

**Selectboard and Board of Sewer Commissioners**

**Town Clerk**

**Town Manager/Town Office**

**Water and Sewer**

## Section 1: TITLE AND AUTHORITY

This Policy shall be known as the Town of Manchester Personnel Policy. It has been adopted by the Town of Manchester (hereinafter "Town") Selectboard pursuant to 24 V.S.A. §§ 1121 and 1122.

The Selectboard reserves the right to amend any of the provisions of this Personnel Policy for any reason, at any time, with or without notice. The selectboard also retains the right to modify or amend the terms of employment at any time and for any reason, including unilaterally eliminating a position and thus terminating employment, reducing the work hours for some or all employees due to economic necessity, shortage of work, organizational efficiency, changes in departmental functions, reorganizing or reclassifying positions resulting in the elimination of a position, or for other reasons without limitation.

Unless covered by a collective bargaining agreement or individual employment contract providing otherwise, all employment with the Town is on an at-will basis. This means that either the employee or the Town may terminate the employment relationship at any time, with or without cause, and with or without notice, to the extent permitted by law.

This Personnel Policy will be administered by the Town Manager, Selectboard and employee's supervisors.

## Section 2: PERSONS COVERED

This Personnel Policy applies to full-time and part-time employees of the Town. Except by separate written agreement or conditions of appointment, elected officers and their statutory assistants, members of Town boards and commissions, volunteers, and persons who provide the Town with services on a contract basis are not covered by this Policy. Adherence to this Policy's provisions concerning unlawful discrimination and sexual harassment shall be a condition of Selectboard appointment of a Town official.

Nothing in this Personnel Policy shall be construed or applied to interfere with, restrain, or coerce employees in the exercise of their rights under Section 7 of the National Labor Relations Act. These rights include, but are not limited to, the right to organize, form, join, or assist labor organizations, to bargain collectively through representatives of their choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, as well as the right to refrain from such activities.

For purposes of this Policy, a full-time employee is an employee who works at least 40 hours per week on a regular and continuing basis. A part-time employee is an employee who works fewer than 30 hours per week on a regular and continuing basis. Seasonal employees are defined as any employee hired for a defined period of time or for a defined purpose or project. Nothing in this Personnel Policy precludes the Town from classifying an employee as both a seasonal employee and part-time employee.

Where a conflict exists between this Personnel Policy and an individual employment contract, the latter will control.

Certain sections of the Personnel Policy may apply to union employees covered by a collective bargaining agreement to the extent agreed by the union and the Town. Certain sections of the Personnel Policy may apply to seasonal employees as determined by the Town Manager. Fire Department employees are covered by the Personnel Policy, except for sections applicable only to full-time or part-time employees, and they also are not covered by sections related to schedules, benefits, or leave, except as they may meet qualifying

criteria for leave. To the extent the Selectboard adopts rules related specifically to Fire Department employees, such rules shall control in the event of a conflict with this Personnel Policy.

### Section 3: EQUAL EMPLOYMENT OPPORTUNITY

It is the policy of the Town to provide equal opportunity to all employees and applicants without regard to race, color, religion, ancestry, sex, sexual orientation, gender identity, age, national origin, place of birth, marital status, disability, veteran's status, HIV status, pregnancy, health coverage status, genetic information, crime victim status, or any other category of person protected under state or federal law.

The Town will provide reasonable accommodations for employees with a condition related to pregnancy, childbirth, or a related medical condition, unless doing so would impose an undue hardship. Examples of reasonable accommodations may include, but are not limited to, more frequent or longer breaks, time off to recover from childbirth, acquisition or modification of equipment, job restructuring, light duty, or a modified work schedule.

### Section 4: BACKGROUND CHECKS

In most cases, the Town will conduct criminal background checks on all employment candidates and may periodically update such checks for seasonal rehires. Roles with the Manchester Parks and Rec Summer Camp may undergo a Fingerprint Background check.

### Section 5: PROBATIONARY PERIOD

All new employees will be required to complete a 90-day probationary period. The purpose of this probationary period is to determine whether the employee is suited for the job. The 90-day probationary period may be extended to an additional 90-day period for further evaluation, as needed. During the probationary period, an employee may be terminated at any time at the sole discretion of the Town Manager. Notwithstanding any other provision of this Policy, an employee terminated during the probationary period will have no right to prior notice nor appeal of such termination.

### Section 6: CONDUCT OF EMPLOYEES

All employees are considered representatives of the Town and as such are expected to conduct themselves in a courteous, helpful, and respectful manner in all their interactions with the public, other employees, and town officials. All employees are expected to faithfully execute the duties and responsibilities of their office to the best of their ability.

### Section 7: EXPENSE REIMBURSEMENT

Travel: Employees using personal vehicles for Town business shall be paid the standard IRS rate for mileage reimbursement. The reimbursement shall include compensation for all vehicle use including fuel, maintenance, insurance, and wear and tear. Employees shall not be compensated for routine commuting costs, insurance deductibles, other insurance related costs and traffic citations. Employees are encouraged to use the Town's leased vehicle for Town business, if one is available.

Meals: The Town shall reimburse employees for meals purchased while traveling on Town business; provided that employees submit *itemized* receipts. The Town shall not reimburse employees for the purchase of alcohol. Furthermore, employees are prohibited from consuming any alcohol four (4) hours before operating a Town-owned vehicle and/or are in violation of state laws governing intoxicated or impaired driving. The Town will reimburse for gratuity up to 15% of the bill. Employees will be eligible for dinner reimbursement for travel after 6:00 p.m. Breakfast reimbursement shall be made for travel before 7:00 a.m. The Town shall reimburse for lunch when employees travel outside Bennington County. Reimbursement rates for breakfast, lunch and dinner will be reviewed and set by the Town Manager annually.

Uniforms: Full-time employees of the Department of Public Works and Water and Sewer Departments shall have uniforms supplied and cleaned by the Town and reimbursed up to \$200 each fiscal year for the acquisition of OSHA approved safety work boots.

The Town shall provide uniforms to the Chief of Police and Lieutenant, as well as reimbursement of costs for uniform cleaning, payable in increments on or around September 1 and March 1 of each year. The Town shall reimburse the Chief of Police and Lieutenant, each fiscal year, for the acquisition of work shoes.

All reimbursement requests will be submitted on an Expense Form and approved by the Town Manager.

## Section 8: DRESS STANDARDS

In order to provide a professional work environment, the Town requires the following dress standards:

No employees may wear ripped, torn or stained clothing, baggy pants or shorts that fall below the waist, halter tops or tops that bare the midriff, clothing that condones illegal or inappropriate activity, clothing depicting violence, sexual acts, profanity, illegal drugs, alcohol or tobacco.

Employees, with the exception of lifeguards, may not wear tank tops or flip-flops. Town employees, with the exception of all Parks and Recreation Department employees, may not wear shorts; provided that all shorts worn by Parks and Recreation Department employees shall be modest and not overly exposed legs. Lifeguards shall wear uniforms provided by the Town; other Parks and Recreation Department employees may not wear two-piece bathing suits.

The Town may require employees of the Parks and Recreation Department, Department of Public Works, Sewer and Water Departments and Police Department to wear Town-issued uniforms.

All employees of the Department of Public Works and Sewer and Water Departments shall wear OSHA approved work boots and clothing.

## Section 9: CONFLICTS OF INTEREST

A conflict of interest means a direct or indirect personal or financial interest of an employee or a person or group closely tied with the employee including a close relative, household member, business associate, or employer or employee. A close relative includes a spouse, civil union partner, romantic co-habitant, parent, stepparent, grandparent, child, stepchild, grandchild, sibling, aunt or uncle, niece or nephew, parent-in-law and sibling-in-law.

Every employee of the Town shall carry out their job in a way that avoids conflicts of interest so that the public trust will be preserved. All decisions made by Town employees shall be made based on the best interests of the community at large rather than the interests of any particular individual or employee.

An employee shall not participate in any official action if the employee has a conflict of interest in the matter under consideration. An employee shall not personally, or through any member of their household, business associate, employer or employee, represent, appear for, or negotiate in a private capacity on behalf of any person or organization in a cause, proceeding, application or other matter pending before the Town.

An employee shall not use resources not available to the general public, including but not limited to Town staff time, equipment, supplies, or facilities for private gain or personal purposes, unless authorized by the Town Manager.

An employee may accept a nominal gift or gratuity in connection with an action associated with their official duties on behalf of the Town with an estimated monetary value not exceeding \$50 once per calendar year, with the understanding that employees may not directly or indirectly ask, demand, exact, solicit, accept or receive any gift, gratuity, act or promise beneficial to that individual, or another, which could influence any action or inaction associated with their official duties on behalf of the Town, or create the appearance of impropriety in connection with any actions or inactions associated with their official duties on behalf of the Town. Nor shall any employee authorized to procure or to recommend procurement of materials, supplies or services, directly or indirectly, ask, demand, exact, solicit, seek, accept, receive or agree to receive for the employee or another person, any benefit or benefits from the person providing or soliciting the provision of such materials, supplies or services with the exception of items of a de minimis nature valued \$50 or less (such as vendor booth “freebies”). An employee may attend a hosted meal when it is provided in conjunction with a meeting directly related to the conduct of Town business or where official attendance is appropriate. An employee may accept an award publicly presented in recognition of public service.

## Section 10: HOURS OF SERVICE

All employees are expected to be in attendance during regular work hours. Employees who will be absent from work are expected to notify their Supervisor in advance whenever possible. Employees who are calling in sick are expected to notify their Supervisor as soon as possible, but no later than 8 a.m. for Town Office and 6 a.m. for Highway and Water & Sewer Departments.

Regular work hours may be changed, and employees may be expected to work additional hours that may exceed forty hours in a given week, as circumstances require. All road crew employees are required to be available for work on a call-in basis, especially during the winter months. All Town employees are required to be available for work in the case of an emergency, weather-related or otherwise.

### Town Office Administration

Regular work hours for persons employed at the Town hall or other Town offices shall be 8 a.m. to 4:30 p.m., Monday through Friday, with a 30-minute unpaid break for lunch and an additional 15-minute break, as needed.

### Highway and Water & Sewer Departments

Regular work hours for persons employed for the Highway and Water & Sewer departments shall be 6 a.m. to 2:30 p.m., Monday through Friday with a 30-minute unpaid break for lunch and an additional 15 minute break, as needed. Saturday and Sunday - On call hours.

### Parks and Recreation

Regular work hours for full-time Parks and Recreations employees will be 40 hours per week. During the summer season the schedule may be modified to accommodate seasonal programming.

## **Section 11: CLOSURE OF TOWN OFFICES**

The Town Manager may order the delay of opening of certain Town offices, the early release of certain Town employees or the closure of certain Town offices due to weather, emergencies or other reasons deemed necessary by the Town Manager.

Full-time employees shall not be required to use PTO when Town offices are closed by the Town Manager.

## **Section 12: OUTSIDE EMPLOYMENT**

The primary occupation of all full-time employees shall be with the Town. Employees may not engage in any outside business activities during their normal working hours. Employees are prohibited from undertaking outside employment that interferes with their job performance or constitutes a conflict of interest, as defined in Section 9 of this Policy.

Prior to accepting any outside employment, employees will disclose their intent to do so with their immediate supervisor or Town Manager.

## **Section 13: POLITICAL ACTIVITY**

No employee may use their official authority for the purpose of interfering with or affecting the nomination or election of any candidate for public office, or demand or solicit from any individual direct or indirect participation in any political party, political organization, or support of any political candidate. Employees are prohibited from using Town facilities, equipment, or resources for political purposes and from pursuing political activities while working.

This Personnel Policy is not to be construed to prevent employees from becoming or continuing to be members of any political party or organization, from attending political party or organization meetings or events, or from expressing their views on political matters, so long as: 1) these views are clearly articulated as being those of the individual and not of the Town, 2) these activities do not interfere with the individual's ability to effectively perform their duties, and 3) these activities take place or are expressed during non-working hours. This Personnel Policy is not to be construed as prohibiting, restraining, or in any manner limiting an individual's right to vote with complete freedom in any election.

## **Section 14: NEPOTISM**

The Town – in recognition of the potential for a conflict of interest to occur in the workplace– prohibits the hiring of relatives that results in supervising or evaluating that relative. In those occasions, another

Department supervisor or Town Manager will need to provide immediate supervision and evaluation of that employee.

A close relative includes a spouse, civil union partner, romantic cohabitant, parent, stepparent, grandparent, child, stepchild, grandchild, sibling, aunt or uncle, niece or nephew, parent-in-law and sibling-in-law.

## Section 15: DRUG AND ALCOHOL USE

The Town intends to maintain a drug-free workplace and workforce. The use of alcohol or illegal drugs and the abuse of prescription drugs are not tolerated in the workplace, except as herein stated.

As a Town employee, you are prohibited from working, or presenting yourself for work, while under the influence, or severe after effects, of illegal drugs, controlled substances, and/or alcohol. This Policy is designed to promote our goal of providing a safe, healthy and productive work environment. This Policy covers all employees, including drivers and other employees who are also subject to drug testing programs performed in accordance with Federal Department of Transportation (DOT) requirements.

It is the policy of the Town to prohibit the manufacture, distribution, transfer, display, transportation, sale, dispensation, possession, consumption, or use of illegal drugs, controlled substances, and/or alcohol by Town employees at the workplace during work hours.

For the purposes of this Policy, the term “illegal drug” includes both: (a) all state and/or federally controlled substances, including look-alike and designer drugs, and drug paraphernalia, and (b) prescription medications that have not been prescribed for current use by an authorized medical practitioner or that are being used contrary to the prescribing medical practitioner’s instructions. Controlled substances include but are not limited to the following substances: marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), barbiturates, benzodiazepine, methadone, methaqualone, and propoxyphene.

### Prohibited Conduct:

The following actions are prohibited in the workplace, on municipal property, while using municipal equipment, or during any time period in which you are on municipality business:

- Possessing, consuming, or using illegal or controlled substances, as defined by federal, state, and local statutes. (Controlled substances may be taken pursuant to a properly issued prescription, provided the controlled substance is taken as, and in the amount, prescribed and so long as the medication does not adversely affect the employee’s ability to perform the essential functions of their job).
- Distributing, transferring, displaying, transporting, selling, or possessing with the intent to distribute illegal or controlled substances.
- Possessing or using drug paraphernalia except when used for legal substances and in a legally prescribed manner.
- Being under the influence of illegal or controlled substances as demonstrated by actions and/or other evidence.
- Growing and/or manufacturing any illegal drug or controlled substance.

An employee must notify their immediate supervisor and Town Manager, in writing, if they are convicted of a violation of a criminal drug statute occurring in the workplace and must do so no more than two (2) calendar days after the conviction.

The limited, responsible consumption of alcohol on or off municipality premises at a Town-sponsored business or social function is permitted, but only if it has been authorized in writing and in advance by the Chief of Police. The Town expects all attendees at such a function to behave in a professional manner and in accordance with Town policies.

The Town reserves the right to search and inspect all areas of the workplace and its premises for the purposes of maintaining a safe and healthy workplace.

The illegal use of prescription drugs is prohibited. If an employee is legally taking prescription drugs that affect the employee's ability to safely perform any of the essential functions of their job, their supervisor or the Town Manager will determine whether the employee should continue to perform their functions until concerns regarding safety can be addressed. Medical certification may be required.

Employees may be disciplined, up to and including termination, for violations of this Policy.

In addition to this Policy, employees who operate commercial motor vehicles (CMVs) for the Town are also subject to the provisions of the Town's CMV Drug and Alcohol Policy.

## Section 16: PROHIBITED USE

The Town hereby prohibits employees' use of tobacco in any form, including electronic cigarettes, in all publicly owned buildings, offices and enclosed areas, designated smoke-free areas of Town property, and in all Town vehicles. The Town hereby prohibits employees' use of cellular telephones and other handheld electronic devices while operating Town owned vehicles, machinery, and heavy equipment.

## Section 17: PERFORMANCE EVALUATIONS

Employees may be provided job performance evaluations periodically and at such times the Town deems necessary. The results of such evaluations will be discussed with the employee, by the employee's supervisor, and provided to the Town Manager and Human Resources as part of the employee's personnel file.

## Section 18: PERSONNEL RECORDS

Personnel records will be maintained for each employee by Human Resources. In accordance with Vermont's Public Records Law, any employee or the employee's designated representative may inspect or copy their personnel file at a mutually agreeable time during regular office hours. The Town reserves the right to have its representative present at the time its files are examined or copied.

## Section 19: USE OF TOWN EQUIPMENT

The use of Town equipment or property for personal use is strictly prohibited. Employees should have no expectation of privacy regarding anything stored in or on Town-owned property or Town-owned equipment, including but not limited to desks, filing cabinets, lockers, and vehicles. Employees should expect that such areas may be searched at any time to retrieve work-related materials or to investigate suspected violations of workplace rules.

## Section 20: USE OF TOWN COMPUTER SYSTEM

For purposes of this Policy, "computer system" means all computers and devices and any related hardware, equipment, components, or software, including, but not limited to, host computers, file servers, workstation terminals, laptops, tablets, smartphones, internal or external communication networks, the world wide web (www), the Internet, commercial online services, bulletin board systems, backup systems, and the internal and external e-mail systems accessed via the Town's computer equipment.

All electronic communications regarding Town business should be, to the furthest extent possible, conducted via official Town computer systems. A Town employee should avoid conducting Town business using their personal computer, device, or account unless authorized by the Town. The Town computer system is to be used by employees for the purpose of conducting Town business. Occasional, brief, and appropriate personal use of the Town computer system is permitted, provided it is consistent with this Policy and does not interfere with an employee's job duties and responsibilities.

Employees should have no expectation of privacy or confidentiality regarding anything created, sent, or received on the Town computer system. The Town may monitor at any time its computer system without warning or any specific notice to employees, including any and all computer transactions, communications, and transmissions for any reason including, but not limited to ensuring compliance with this Policy and evaluating the use of its computer system. All files, documents, data, and other electronic messages created, received, or stored on the Town computer system are open to review and regulation by the Town and may be subject to the provisions of Vermont's Public Records Law.

Employees may not introduce software from any outside source on the Town's computer system without prior, written authorization from their supervisor. Employees may be held responsible for any damage caused by using unauthorized software or viruses they introduce into the Town computer system.

Employees who have a confidential password to access the Town's computer system should be aware that this does not mean the computer system is for personal confidential communication, nor does it suggest that the computer system is the property of that person. Confidential passwords must be provided to the Town Manager upon direction, including after suspension or dismissal from employment.

Transmission of electronic messages on the Town computer system shall be treated with the same degree of propriety, professionalism, and confidentiality as written correspondence. The following are examples of prohibited uses of the Town computer system:

- Communications that in any way may be construed by others as disruptive, offensive, abusive, discriminatory, harassing, or threatening;
- Communications of sexually explicit images or messages;
- Transmission of chain letters or solicitations for personal gain, commercial or investment ventures, religious or political causes, outside organizations, or other non-job-related solicitations during or after work hours;
- Access to Internet resources, including websites and news groups, that are inappropriate in a business setting;

- Unauthorized disclosures. Unauthorized disclosures include disclosures of non-public information, unless the disclosure is authorized by law; and the dissemination of confidential, proprietary, or privileged information.
- Any other use that may compromise the integrity of the Town and its business in any way.

Nothing in this section, nor any other section on this Personnel Policy, will be interpreted or applied in a manner that interferes with employee rights to organize, form, join, or assist labor organizations, to bargain collectively through representatives of their choosing to the extent allowed by law, or to engage in other concerted activities for the purpose of addressing the terms and conditions of employment.

## Section 21: PERSONAL USE OF SOCIAL MEDIA

This section applies to employees using social media in their personal, non-official capacity. Personal use means day-to-day use unrelated to official duties, whether during work or off-duty hours. Occasional, brief, and appropriate personal use during work hours is permitted if consistent with this Policy, does not interfere with job duties, and does not disrupt the Town's operations.

Employees are expected to be truthful, courteous, and respectful toward supervisors, co-workers, residents, customers, and others connected to the Town. Personal use must not include harassment, discrimination, or retaliation based on any protected category under federal, state, or local law.

When commenting on Town business in a personal capacity, employees and officials must include a disclaimer clarifying their opinions are their own and not the Town's. Employees must avoid implying personal statements that reflect official Town positions.

Personal use must not involve the Town's business, email accounts, or resources, unless authorized for administrative purposes. Use of Town-owned equipment for extensive personal social media is prohibited. Personal use that disrupts the workplace, harms productivity, or violates laws or policies is prohibited. Examples include, but are not limited to:

- Harassment, cyber-bullying, stalking, or name-calling;
- Release of private or confidential information, including public records;
- Misuse of Town name, logo, or title;
- Unlawful activity or misuse of Town social media.

Employees may not use Town resources or titles for partisan political purposes. Employees should also note that posts about Town business may, in some cases, be subject to Vermont's Public Records Act.

Nothing in this policy is intended to restrict lawful rights to discuss wages, hours, or working conditions, engage in protected concerted activity, or speak as private citizens on matters of public concern, provided such speech does not unduly disrupt Town operations.

## Section 22: PUBLIC RECORDS

Any written or recorded information that is produced or acquired by a Town employee in the course of Town business is a public record, subject to Vermont's Public Records Law and may be covered by the State of Vermont's retention rules and disposition schedules for municipal records. Although the Town discourages the use of personal computers, devices, or accounts to conduct Town business, the use of a personal computer, device, or account does not prevent an otherwise public record from being subject to public inspection and copying. In the uncommon event that an employee uses their personal computer, device, or account to conduct Town business, the record created, sent, or received should be forwarded by the employee to the employee's Town computer system, or otherwise captured and retained as a Town record. All employees are required to respond in the manner prescribed by Vermont's Public Records Law regardless of where a Town public record may be stored. All employees must provide any Town public records stored in their personal computers, devices, or accounts that are responsive to a public records request.

## Section 23: ELIGIBILITY FOR BENEFITS and WORKPLACE INJURY

The Town offers group insurance and other benefit programs to its eligible full-time employees. Details about those benefits, as they exist on the date of hire, are included as an attachment to this Policy.

The Town reserves the right to change insurance carriers, or to add, delete, or amend insurance or other benefit programs in its sole discretion. The Town also reserves the right to change the amount or percentage of its contribution to the cost of any group health insurance program. Employees will be provided with advance notice of any change in the contribution rate.

Employees injured while performing their duties shall immediately notify their supervisor. Employees must complete a First Report of Injury form, and submit to Human Resources, within 72 hours. With any injury that requires first aid, the employee will be seen by a healthcare provider, within 24 hours. A healthcare provider must provide the employee with a written return to work document with any needed restrictions. The employee must provide the return to work document to Human Resources, prior to returning to regular work activities.

Employees may be covered by workers' compensation insurance if their injury arises out of and is in the course of employment. The Town shall continue health insurance coverage, with the employee being responsible for regular contribution rates and deductibles. Employees may use sick and vacation time to supplement the difference between Workers Compensation payment and their net pay. Questions should be posed to Human Resources.

## Section 24: HOLIDAY LEAVE

Full-time year round and full-time seasonal employees will receive the following paid holiday leave:

- New Year's Day (January 1<sup>st</sup>)
- Martin Luther King, Jr.'s Birthday (3<sup>rd</sup> Monday in January)
- Presidents' Day (3<sup>rd</sup> Monday in February)
- Memorial Day (last Monday in May)
- Juneteenth National Freedom Day (June 19<sup>th</sup>)
- Independence Day (July 4<sup>th</sup>)

- Labor Day (1<sup>st</sup> Monday in September)
- Indigenous Peoples’ Day (Columbus Day, 2<sup>nd</sup> Monday in October)
- Veterans’ Day (November 11<sup>th</sup>)
- Thanksgiving Day and Friday after (4<sup>th</sup> Thursday and 4<sup>th</sup> Friday in November)
- Christmas Day (December 25<sup>th</sup>)

Full-time employees will receive holiday (excluding Christmas) leave pay for the number of hours in the employee's typical workday on which the holiday falls, at the employee’s regular rate of pay.

Seasonal employees who work part-time or have a varied schedule will receive time and a half pay when working on a holiday.

Employees will be paid two times their regular rate of pay for worked hours on Christmas.

Holidays falling on a Saturday will be observed the preceding Friday. Holidays falling on a Sunday will be observed the following Monday.

Holidays that fall during an employee’s vacation leave will not be charged as vacation leave.

**Section 25: VACATION LEAVE**

Full-time employees will accrue vacation at the following rates:

Years of Service	Annual Accrual
0 - 1 years	10 days (prorated for 1 <sup>st</sup> year)
2-4 years	15 days
5-9 years	18 days
10-14 years	25 days
15 years+	28 days

Vacation leave is prorated based on your date of hire and is added to your leave bank on your first day of work. However, an employee may take vacation during the employee’s probationary period, at the discretion of the Town Manager. Increases in the annual rate of accrual of vacation time will occur on July 1<sup>st</sup>. Vacation accrual and use shall be tracked in hours.

Full-time employees will receive vacation leave pay at the employee’s regular rate of pay. Leave must be taken in a minimum of 15-minute increments.

Employees are strongly encouraged to take an annual vacation. Requests for vacation should be submitted, using the *Paid Time Off Leave Request* form, to the employee’s supervisor as soon as possible but not less than 48 hours in advance of the requested time-off.

Employees are allowed to carry-over unused vacation leave to the next year, up to a maximum of 240 hours, as of June 30<sup>th</sup> each year. The Town may pay employees fifty dollars (\$50.00) for each vacation day in excess of

30 days as of June 30 for days not used and not carried over, provided that said annual payment does not exceed three hundred dollars (\$300.00) for any employee.

Vacation leave will be included in calculating overtime for that employee.

An employee who resigns from employment with the Town will be compensated for unused, accrued vacation leave, with the exception that any employee who terminates during their probationary period will not be entitled to compensation for any accrued vacation time.

Employees will be given the opportunity to attend Town Meeting, with prior notification to their immediate supervisor.

## Section 26: SICK LEAVE

### Definition

For the purposes of this section of the Policy, the following definition shall apply: “eligible employee” means an employee or an elected official of the Town who: (a) is age 18 or older; (b) works an average of 18 or more hours per week during the year; and (c) is expected to work more than 20 weeks in a 12-month period. This definition includes newly-hired employees and those who are still in their probationary period of employment. This definition does not include an individual who: (i) works on a per diem or intermittent basis; (ii) works only when he or she indicates that he or she is available to work; (iii) is under no obligation to work for the Town; and (iv) has no expectation of continuing employment with the Town.

### Earned Sick Leave

Eligible full-time employees will earn 8 days of sick time each year, prorated based on your start date during your first year of employment. Such leave will be awarded to employees in a lump sum at the beginning of the Fiscal Year. Part-time/Seasonal that work more than 20 consecutive weeks, averaging more than 18 hours/week, will accrue 1 hour of sick time per 52 hours worked. Any accrued sick leave will be forfeited at the time of termination.

### Accrual Carry Over Limit

Employees are allowed to carry over unused sick leave to the next year, up to a maximum of 320 hours, as of June 30<sup>th</sup> each year.

### Incentive Payment

The Town shall pay an “attendance incentive payment,” on or around June 30 of each year, equal to fifty dollars (\$50.00) for each full sick day accrued but not taken during the prior fiscal year; provided that such attendance incentive payment shall not exceed four hundred (\$400.00) for any employee.

### Waiting Period

An employee may take sick leave during the employee’s probationary period.

### Use of Sick Leave

Eligible employees may use paid leave in increments no smaller than fifteen minutes.

An employee may use sick leave for the purposes below:

- The employee is ill or injured.
- The employee obtains professional diagnostic, preventive, routine, or therapeutic health care.
- The employee cares for a sick or injured parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child, including helping that individual obtain diagnostic, preventive, routine, or therapeutic health treatment, or accompanying the employee's parent, grandparent, spouse, or parent-in-law to an appointment related to their long-term care.
- The employee is arranging for social or legal services or obtaining medical care or counseling for the employee or for the employee's parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child, who is a victim of domestic violence, sexual assault, or stalking or who is relocating as the result of domestic violence, sexual assault, or stalking. As used in this section, "domestic violence," "sexual assault," and "stalking" shall have the same meanings as in 15 V.S.A. § 1151.
- The employee cares for a parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child, because the school or business where that individual is normally located during the employee's workday is closed for public health or safety reasons.
- The Town Manager shall have the discretion to request a medical certification to verify the legitimacy of sick leave utilization after three (3) consecutive days of said utilization.

Compensation for use of paid leave will be at the employee's regular rate of pay.

Use of this paid leave does not diminish the rights that an employee may have under the Vermont Parental Family Leave Act.

#### Compensation at Time of Separation from Employment

The Town will not compensate eligible employees for unused, accrued sick leave at the time of separation from employment.

## **Section 27: BEREAVEMENT LEAVE**

Employees may be provided with up to five paid bereavement leave days (pro-rated for part-time employees) related to the death of a close family member, domestic partner or member of an employee's household. The exact amount of time off depends upon the circumstances and subject to supervisor approval. For purposes of this Policy, "close family member" is defined as the following: spouse, civil union partner, significant other, parent, stepparent, grandparent, child, stepchild, grandchild, sibling, parent-in-law, or sibling-in-law.

If additional time off is needed, or if time off is needed for the funeral of a friend or a relative who is not included above, the employee's supervisor may grant, on a case-by-case basis, the use of a reasonable amount of accrued sick leave, if available, or unpaid leave, if unavailable. The amount of such time off, if approved, will depend upon the individual circumstances such as the distance to be traveled, closeness of the employee's relationship with the person who died or the employee's family, and the employee's level of responsibility in making funeral or other arrangements.

Paid bereavement leave does not accrue and thus, when not used, is not carried forward into the next year nor compensated upon separation from employment.

## Section 28: PARENTAL AND FAMILY LEAVE

The Town reserves the right to designate any qualifying leave of absence granted under this Policy as leave under the federal Family and Medical Leave Act (FMLA) or the Vermont Parental and Family Leave Act (VPFLA), in the case either law applies to an eligible employee's circumstances. A request for leave must be made to the Town Manager. Where an employee's leave request is covered by both the VPFLA and the FMLA, the Town will adhere to the law that provides the most benefits to the employee.

For the purposes of determining the 12-month period in which an employee may be entitled to VPFLA and/or FMLA leave, the Town will use a rolling 12-month period measured backward from the date an employee uses such leave.

This section shall also apply to employees covered by collective bargaining agreements.

## Section 29: SHORT TERM FAMILY LEAVE

In accordance with 21 V.S.A. § 472a, eligible employees may be entitled to take unpaid leave not to exceed four hours in any 30-day period and not to exceed 24 hours in any 12-month period for the following purposes:

- To participate in preschool or school activities directly related to the academic educational advancement of the employee's child, stepchild, foster child, or ward who lives with the employee, such as a parent-teacher conference;
- To attend or accompany the employee's child, stepchild, foster child, or ward who lives with the employee or the employee's parent, spouse or parent-in-law to routine medical or dental appointments;
- To accompany the employee's parent, spouse or parent-in-law to other appointments for professional services related to their care and well-being; or
- To respond to a medical emergency of the employee's child, stepchild, foster child, or ward who lives with the employee or the employee's parent, spouse or parent-in-law.

The Town may require that leave (including accrued paid leave) be taken in a minimum of two-hour segments. At the option of the employee, accrued paid leave may be used. Before taking leave under this section an employee shall make a reasonable attempt to schedule appointments outside of regular work hours. An employee shall provide the Town with the earliest possible notice of the intent to take short term family leave, but in no case later than seven days before leave is to be taken, except in an emergency where the required seven-day notice could have a significant adverse impact on the family member of the employee.

## Section 30: CRIME VICTIM LEAVE

In accordance with 21 V.S.A. § 472c, eligible employees who are crime victims may be entitled to take unpaid leave for the purpose of attending a deposition or court proceeding related to:

- a criminal proceeding when the employee has a legal right or obligation to appear at the proceeding;

- a relief from abuse, neglect, or exploitation hearing when the employee is the plaintiff; or
- hearings concerning an order against stalking or sexual assault, when the employee seeks the order as plaintiff.

A “crime victim” is a person who has:

- obtained a relief from abuse order against a family or household member;
- obtained a court order against stalking or sexual assault;
- obtained a court order against abuse of a vulnerable adult; or
- sustained physical, emotional or financial injury as the direct result of the commission or attempted commission of a crime or act of delinquency and is identified as a crime victim in an affidavit filed by a law enforcement official with a prosecuting attorney. This includes the victim’s child, foster child, parent, spouse, stepchild or ward of the victim who lives with the victim, or a parent of the victim’s spouse, provided that the individual is not identified in the affidavit as the defendant.

At the option of the employee, accrued sick leave, vacation leave, or any other accrued paid leave may be used.

### Section 31: LEAVE OF ABSENCE WITHOUT PAY

Requests for leaves of absence without pay for any reason other than those covered by federal or state law must be submitted in writing to the employee’s supervisor and must set forth the purpose for which the leave is requested. All leave requests must be for a definite period of time and include a specified date of return.

If a leave of absence without pay is granted, the employee may, at the Town’s sole discretion, continue the employee’s group health plan coverage by paying the required employee portion of the monthly premium in accordance with the payment schedule established by the Town.

### Section 32: MILITARY LEAVE

The Town will comply with the requirements of the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. §§ 4303 et seq., and 21 V.S.A. §§ 491 et seq. Employees who take military leave subject to the provisions of these laws will be granted leave without pay. At the option of the employee, any paid leave accrued prior to the commencement of the leave may be used.

### Section 33: JURY LEAVE

The Town will compensate employees for their service as jurors or witnesses when unrelated to their status as a Town employee. The Town will pay the difference between the employee’s actual base salary and any juror or witness remuneration, provided that the employee would have been scheduled to report to work and submits sufficient documentation attesting to jury or witness duty. In accordance with 21 V.S.A. § 499, employees will otherwise be considered in the service of the Town for purposes of determining seniority, benefits, credit towards vacations, sick leave, and other rights, privileges, and benefits of employment.

### Section 34: OVERTIME AND COMPENSATORY TIME OFF

In accordance with the federal Fair Labor Standards Act (FLSA), the Town compensates nonexempt employees at the rate of one and one-half hours for each hour actually worked in excess of forty hours in any work week. The standard for calculating overtime or compensatory time is based upon a single work week, and cannot be

an average of the hours worked over two or more weeks, as stated in the Vermont Department of Labor Wage and Hour Laws. All paid leave shall be considered as time worked for the purposes of calculating overtime. Vacation and holiday time may be included in calculating overtime or compensatory time for employees.

Town Administration positions that are considered Exempt include the Town Manager, Director of Finance, Assessor, and Zoning Administrator. In lieu of overtime pay, non-exempt administrative positions may elect compensatory time at a rate of one and one-half (1.5) hours for each hour worked in excess of forty (40) hours in any given week, subject to pre-approval by the employee's supervisor. Accruals shall not exceed 240 hours except that employees engaged in public safety, emergency response, or seasonal work, as defined by FLSA, may accumulate not more than 480 hours of compensatory time. The Town shall pay-out all unused accumulated compensatory time on or before June 30<sup>th</sup> of each year.

An employee who has accrued comp time and requests use of comp time will be permitted to use such time off within a reasonable period after making the request, if such use does not unduly disrupt the Town's operations. Requests for use of comp time must be submitted to the employee's supervisor. Requests for use of comp time will not unreasonably be withheld.

## Section 35: EMPLOYMENT HARASSMENT AND DISCRIMINATION

The Town is committed in all areas to providing a work environment that is free from unlawful harassment and discrimination. Vermont and federal law prohibit employment discrimination or retaliation based on race, color, religion, sex, gender identity, marital status, national origin, age, pregnancy, genetic information, crime victim or veteran status, any other category of person protected under federal or state law, or against a qualified individual with a disability, with respect to all employment practices. Vermont law also prohibits discrimination based on sexual orientation, ancestry, HIV status, and place of birth. It is unlawful to retaliate against employees or applicants who have alleged employment discrimination.

Examples of harassment include the following: insulting comments or references based on a person's race, color, religion, sex, gender identity, marital status, national origin, age, pregnancy, genetic information, health coverage status, crime victim or veteran status, disability, sexual orientation, ancestry, HIV status, place of birth; aggressive bullying behaviors; inappropriate physical contact or gestures; physical assaults or contact that substantially interferes with an individual's work performance or creates an intimidating, hostile, or offensive working environment; retaliation against an employee for complaining about the behaviors described above or for participating in an investigation of a complaint of harassment. Petty slights, annoyances, and isolated incidents (unless serious) will not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people.

The Town will not tolerate unlawful harassment based on a person's race, color, religion, sex, gender identity, marital status, national origin, age, pregnancy, genetic information, crime victim or veteran status, disability, sexual orientation, ancestry, HIV status, place of birth, or membership in a classification protected by law. Likewise, the Town will not tolerate retaliation against an employee for filing a complaint of harassment or for cooperating in an investigation of harassment.

All employees, including supervisors and other management personnel, as well as appointed Town officials, are expected and required to abide by this Policy. Employees who are found to have engaged in harassment may face disciplinary action up to and including termination. Any employee who believes that they have been the target of this type of harassment, or who believes they have been subjected to retaliation for having brought or supported a complaint of harassment, is encouraged to directly inform the offending person or persons that such conduct is offensive and must stop.

Any employee who wishes to report harassment should file a complaint with:

Town Manager [s.murphy@manchester-vt.gov](mailto:s.murphy@manchester-vt.gov)

Human Resources [k.dixon@manchester-vt.gov](mailto:k.dixon@manchester-vt.gov)

A prompt, thorough, and impartial investigation will be conducted, and confidentiality will be protected to the extent possible. If it is determined that unlawful harassment has occurred, the Town will take immediate and appropriate corrective action. No person will be adversely affected in employment with the Town as a result of bringing a complaint of unlawful harassment.

Complaints of harassment or retaliation may also be filed with the following agencies:

Civil Rights Unit

Vermont Attorney General's Office

109 State Street

Montpelier, VT 05609-1001

Tel: (802) 828-3657 (voice)

(888) 745-9195 (Toll Free VT)

(802) 828-3665 (TTY)

Fax: (802) 828-2154

Email: [ago.civilrights@vermont.gov](mailto:ago.civilrights@vermont.gov)

Online: <http://ago.vermont.gov/about-the-attorney-generals-office/divisions/civil-rights/>

Equal Employment Opportunity Commission

JFK Federal Building

475 Government Center

Boston, MA 02203

Tel: 1 (800) 669-4000 (voice)

1 (800) 669-6820 (TTY)

1 (844) 234-5122 (ASL Video)

Fax: 617-565-3196

Email: [info@eeoc.gov](mailto:info@eeoc.gov)

Online: [www.eeoc.gov](http://www.eeoc.gov)

These agencies may conduct impartial investigations, facilitate conciliation, and, if they find that there is probable cause or reasonable grounds to believe unlawful harassment occurred, they may take a case to court.

## Section 36: SEXUAL HARASSMENT

Sexual harassment in the workplace is illegal under federal and Vermont law and is strictly prohibited. The Town is committed to providing a workplace free from this unlawful conduct. All employees have the right to work without being subjected to insulting, degrading or exploitative treatment on the basis of their sex, sexual orientation, or gender identity. It is against the policies of the Town for any individual, male or female, to sexually harass another individual in the workplace. In accordance with 21 V.S.A. §§ 495 and 495h, the Town has adopted the following sexual harassment policy. All employees are required to read this policy before signing the employee acknowledgement form.

Sexual harassment is a form of sex discrimination and means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

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

Examples of sexual harassment include, but are not limited to, the following, when such instances or behavior come within one of the above definitions:

- explicitly or implicitly conditioning any term of employment (e.g., continued employment, wages, evaluation, advancement, assigned duties or shifts) on the provision of sexual favors;
- touching or grabbing a sexual part of an individual's body;
- touching or grabbing any part of an individual's body after that party has indicated, or it is known, that such physical contact was unwelcome;
- continuing to ask an individual to socialize on- or off-duty when that person has indicated they are not interested;
- displaying or transmitting sexually suggestive pictures, objects, cartoons, or posters if it is known or should be known that the behavior is unwelcome;
- continuing to write sexually suggestive notes or letters if it is known or should be known that the person does not welcome such behavior;
- referring to or calling a person a sexualized name if it is known or should be known that the person does not welcome such behavior;
- regularly telling sexual jokes or using sexually vulgar or explicit language in the presence of a person if it is known or should be known that the person does not welcome such behavior;
- retaliating in any way for having filed or supported a complaint of sexual harassment (e.g., ostracizing the person, pressuring the person to drop or not support the complaint, adversely altering that person's duties or work environment, etc.);

- making derogatory or provoking remarks about or relating to an employee’s sex, sexual orientation, or gender identity;
- directing harassing acts or behavior against a person on the basis of their sex, sexual orientation, or gender identity;
- any off-duty conduct which falls within the above definition and affects the work environment.

It is also unlawful to retaliate against employees for filing a complaint of sexual harassment or for cooperating in an investigation of sexual harassment.

Any employee who believes that they have been the target of sexual harassment, or who believes they have been subjected to retaliation for having brought or supported a complaint of harassment, is encouraged to directly inform the offending person or persons that such conduct is offensive and must stop.

Employees who are found to have engaged in sexual harassment may face disciplinary action up to and including termination. Appointed Town officials found to have violated this Policy may face appropriate corrective action.

Any employee who wishes to report sexual harassment should file a complaint with:

Scott Murphy, Town Manager [s.murphy@manchester-vt.gov](mailto:s.murphy@manchester-vt.gov)

Katie Dixon, Human Resources [k.dixon@manchester-vt.gov](mailto:k.dixon@manchester-vt.gov)

A prompt, thorough, and impartial investigation will be conducted, and confidentiality will be protected to the extent possible. If it is determined that unlawful harassment has occurred, the Town will take immediate and appropriate corrective action. No person will be adversely affected in employment with the Town as a result of bringing a complaint of unlawful harassment.

Complaints of sexual harassment or retaliation may also be filed with the following agencies:

Civil Rights Unit

Vermont Attorney General’s Office

109 State Street

Montpelier, VT 05609-1001

Tel: (802) 828-3657 (voice)

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Equal Employment Opportunity Commission

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Fax: 617-565-3196  
Email: [info@eeoc.gov](mailto:info@eeoc.gov)  
Online: [www.eeoc.gov](http://www.eeoc.gov)

These agencies may conduct impartial investigations, facilitate conciliation, and, if they find that there is probable cause or reasonable grounds to believe sexual harassment occurred, they may take a case to court.

## Section 37: WHISTLEBLOWER PROTECTION

Employees have the right to report, without fear of retaliation, any activity, policy, or practice of the Town that the employee reasonably believes is in violation of a law, rule, or regulation. The Town will not discharge, threaten, retaliate, or otherwise discriminate against an employee who discloses such violations, objects to participating in such violations, or cooperates with an investigation of such violations.

## Section 38: EMPLOYEE DISCIPLINE

The Town will determine, in its sole discretion, when employee conduct must be addressed by discipline. Most often, employee conduct that warrants discipline results from unacceptable behavior, poor performance, or violation of the Town's policies, practices, or procedures. However, discipline may be issued for conduct that falls outside of these identified areas. The Town also reserves the right to impose discipline for off-duty conduct that adversely impacts the legitimate interests of the Town.

The Town will normally adhere to the following progressive disciplinary process: (1) verbal warning; (2) written warning; (3) suspension; and (4) termination. In connection with issuing discipline, the Town may consider prior disciplinary action, regardless whether the prior discipline was for the same or similar employee conduct. Additionally, the Town may bypass one or more steps of progressive discipline when, in its discretion, it determines circumstances warrant, most often based on unusually or extremely serious conduct. Bypassing progressive discipline may also be warranted, for example, when employee conduct irretrievably damages credibility or destroys the confidence of supervisors or management in the employee's ability to continue effectively in the position.

Employees are prohibited from engaging in conduct listed below and may receive discipline, up to and including termination, for doing so. This list has been established to provide examples of behavior that could warrant a range of disciplinary sanctions. This list is not exhaustive.

- Engaging in any illegal activity.
- Refusing to do assigned work.
- Being inattentive to duty, including sleeping on the job.
- Falsifying a time card or other record or giving false information to anyone whose duty is to make such a record.
- Being repeatedly or continuously absent or late, being absent without notice or satisfactory reason or leaving one's work assignment without appropriate authorization.

- Conducting oneself in any manner that is offensive, abusive or contrary to reasonable community standards and expectations of public employees.
- Engaging in any form of unlawful retaliation or discrimination, including sexual harassment.
- Misusing, misappropriating, or willfully neglecting Town property, funds, materials, equipment or supplies.
- Unlawfully distributing, selling, possessing, using or being under the influence of alcohol or drugs when on the job or subject to duty.
- Fighting, engaging in horseplay or acting in any manner which endangers the safety of oneself or others. This includes acts of violence as well as threats of violence.
- Stealing or possessing without authority any equipment, tools, materials or other property of the Town or attempting to remove them from the premises without approval or permission from the appropriate authority.
- Marking or defacing walls, fixtures, equipment, tools, materials or other Town property, or willfully damaging or destroying property in any way.
- Failure to search for or disclose public records upon request.
- Willful violation of Town rules or policies.

## Section 39: EMPLOYEE TERMINATION PROCESS

The Town has adopted an employment termination process.

Probationary employees are not subject to the Town's termination process. Notwithstanding any other provision of this Policy, an employee terminated during the probationary period will have no right to these procedures including no right to appeal such termination.

An employee being considered for unpaid suspension or termination will be provided with written notice. The notice will contain a brief statement of the reason(s) termination/suspension is being considered. Termination letters will include the date, time and place of a pre-termination meeting with Town representatives. At the pre-termination meeting, the employee will be afforded an opportunity to present the employee's response to the reason(s) termination is being considered. Employees have the right to have a representative present. If the employee declines to attend the pre-termination meeting, the employee may submit a written response to the pre-termination notice no later than the scheduled date of the meeting.

Within seven calendar days of the date of the meeting, which time period may be extended if necessary, the Town will provide the employee with a written notice informing the employee whether they have been terminated. If the employee has been terminated, the notice will provide the general reasons therefore and will also inform the employee of the opportunity to request a post-termination hearing before the selectboard by giving written notice to the indicated Town representative within seven calendar days. The employee will be informed that the employee's failure to make a timely request for a post-termination hearing will result in such hearing being waived.

If a request for an appeal to terminate or suspend is made, the Selectboard will provide the employee with a notice informing the employee of the date, time, and place of the post-termination hearing before the Selectboard. The notice will inform the employee of their right to be represented by counsel and of the hearing process described below.


The Selectboard may hold the post-termination hearing in executive session, but the employee can elect for the hearing to be held in open session. A Town representative will present the evidence and grounds supporting termination, and the employee or their attorney may cross-examine witnesses presented by the Town. The employee or their representative may then present the employee's witnesses and evidence, subject to cross-examination by the Town. Opening and/or closing statements will be accepted. The selectboard will decide any evidentiary objections or disputes. After the hearing and Selectboard meeting are adjourned, the Selectboard, under the authority granted by 1 V.S.A. § 312(e), will deliberate over matters presented in the hearing.

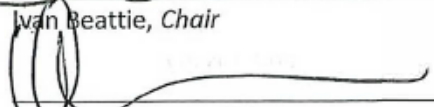
The Selectboard will render a written decision within fourteen calendar days after close of the hearing, which time period may be extended if necessary.

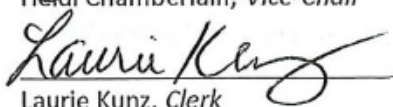
The Town also retains the right to unilaterally eliminate a position and thus terminate employment or reduce the work hours for some or all employees due to economic conditions, shortage of work, organizational efficiency, changes in departmental functions, and/or reorganization or reclassification of positions resulting in the elimination of a position or for other related reasons. In such cases, this termination process does not apply.

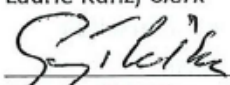
**ADOPTED this 7th day of October, 2025.**


**SIGNATURES of SELECTBOARD:**

  
Ivan Beattie, *Chair*

  
Heidi Chamberlain, *Vice-Chair*

  
Laurie Kunz, *Clerk*

  
Gregory T. Cutler

  
Jonathan West

**ADDENDUM A: Personnel Acknowledgement**

I, \_\_\_\_\_, acknowledge that:

- A. I received a copy of the Town’s Personnel Policy on \_\_\_\_\_ and it is my responsibility to familiarize myself with its contents;
- B. I understand that it is my responsibility to ask questions if there is anything in the Personnel Policy that I do not understand;
- C. I understand that the language used in this Personnel Policy is not intended to create, nor should it be construed to create, a contract or agreement for employment between myself and the Town;
- D. I understand that this Personnel Policy replaces any and all prior versions.
- E. I understand that I may receive compensatory time in lieu of overtime pay, subject to conditions and limitations as stated in this Personnel Policy,
- F. I understand that certain sections of the Handbook also apply to Police Department union employees, Fire Department employees and officers, part-time employees, seasonal employees, appointed board and commission members, certain elected officials and employees of the Town Clerk’s Office, as provided for in agreements between the Town and the Town Clerk or whenever the application is necessary for the continuation of government. Unless otherwise noted herein, this Handbook shall apply to non-union, full-time employees under the purview of the Selectboard, Board of Sewer Commissioners and Board of Water Commissioners. The Policy does not apply to contract employees or vendors, unless provided for herein or in agreements. Where a conflict exists between this Policy and any collective bargaining agreement or an individual employment contract, the latter will control. Part-time employees are defined as any employee working on average less than 30 hours per week who are not seasonal employees. Seasonal employees are defined as any employee hired for a defined period of time or for a defined purpose or project. Nothing in this Handbook precludes the Town from classifying an employee as both a seasonal employee and part-time employee.

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Employee’s Signature

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Date

**ADDENDUM B: Healthcare  
(Full-Time Employees Only)**

The Town of Manchester provides health care insurance to all eligible employees through our current provider (MVP or Blue Cross Blue Shield VT Health Care). The Town shall pay ninety-seven percent (97%) of health care premium costs for employees and their immediate family members; employees, through payroll deduction, shall be required to pay 3% of health care premium costs. Coverage shall be divided into four categories: single, two-person, Employee plus child(ren), and family plans.

Health care insurance is provided to full-time employees. Employees will be eligible for health care insurance on the first day of the month thirty (30) days after the employee's first day of work. Payroll deductions will be withheld the month prior to the month of coverage. For staff that terminate employment, coverage will remain in effect until the end of the current month.

The Town pays employees who are otherwise eligible but opt not to receive health care coverage and are covered by another health insurance provider the following amounts annualized and payable in two separate payments: \$3,500 for single plan subscribers; \$7,000 for two-person plan subscribers; \$8,000 for family plan subscribers.

Payments shall be paid in arrears and paid on or around June 30 and December 31. In order to be eligible for payments, employees must be enrolled in another plan and not enrolled in the Town plan for the preceding six (6) months.

Payroll deductions shall be withheld the month prior to the month of coverage. For staff that terminate employment, coverage will remain in effect until the end of the current month.

**ADDENDUM C: Dental Insurance  
(Full Time Employees Only)**

The Town shall pay one-hundred percent (100%) of the cost of dental insurance for all eligible full-time employees, through the Town's selected provider. Employees shall be required to pay 0% of the cost of dental insurance. For more details please refer to the attached Summary Plan Description or contact the Human Resources Administrator. The employee portion of this benefit is paid through payroll deduction.

For staff that terminate employment, coverage will remain in effect until the end of the current month.

**ADDENDUM D – Short Term Disability, Accidental Death and Dismemberment Insurance and Life Insurance (Full-Time Employees Only)**

Short-Term Disability (STD): The Town currently pays 100% of the cost associated with short-term disability. Short-term disability covers up to 66% of the disabled employee's weekly gross pay, through the current provider. An employee may utilize sick leave and vacation leave to offset the difference between disability benefits and weekly gross base pay to the extent provided for by the Town's insurance provider. For more details please contact the Human Resources Administrator.

Life Insurance and Accidental Death and Dismemberment: The Town shall pay 100% of the cost associated with life insurance and accidental death and dismemberment insurance in the amount of \$25,000 (\$50,000 for employees of the Police Department). For more details please contact the Human Resources Administrator.

**ADDENDUM E – Optional Employee Paid Insurances and Benefits  
(Full-Time Employees Only)**

Long-Term Disability The Town may provide employees access to long-term disability insurance at the sole expense of the employee. For more details please contact the Human Resources Administrator. This benefit is paid for through payroll deduction.

Vision Plan: The Town may provide employees access to a vision plan, provided through the Town's current vision provider at the sole expense of the employee. For more details please contact the Human Resources Administrator. This benefit is paid for through payroll deduction.

Optional Life and Health Insurance: The Town may provide employees access to optional health and/or life insurances, through Aflac at the sole expense of the employee. For more details please contact the Human Resources Administrator. This benefit is paid for through payroll deduction.

Flexible Spending Account: The Town shall pay administrative fees associated with this benefit, while the employee is responsible for all funding deposited into the account. For more details please contact the Human Resources Administrator. This benefit is paid for through payroll deduction.

Optional Deferred Income Programs: The Town may provide employees access to deferred income plans (for example, Section 457 plans) through carriers approved by the Town.

**ADDENDUM F – Retirement & Optional Deferred Income Programs  
(Full-Time Employees Only)**

**401A Account**

Employees with six months of full-time service, shall be eligible for a 6% of gross wages to be contributed to 401a account, with the Town’s current retirement provider.

Police Department employees covered under Vermont Municipal Employees' Retirement System (VMERS) Group C and Group D, please consult your CBA for details on this retirement benefit.

**457 Plan**

Employees have the option to roll-over existing retirement plans, from previous providers, into a 457 Plan with our current provider, and to contribute a personalized deduction to be contributed to their account through bi-weekly payroll.

**Retirement Health Care Insurance**

The Town currently provides retired employees access to the Town’s health care insurance program, subject to the following terms and conditions:

- In order to qualify, retired employees shall be at least fifty-five (55) years of age and not older than 65 years of age and have at least twenty (20) years of full-time service to the Town.
- The retired employee shall pay all deductibles and co-pay costs, if applicable.
- The retired employee shall relinquish the right to this benefit when the employee becomes eligible for Medicare insurance or obtains or becomes eligible for similar health insurance through another source.

The Town shall pay premium costs associated with the Town employee (not family members) based on the age of the employee and the years of service, as provided for in the following chart:

<u>Combined Employee’s Age and Years of Service</u>	<u>Town Contribution (%)</u>
Between 75 and 79 full years	45% of premium
Between 80 and 84 full years	50% of premium
Between 85 and 89 full years	55% of premium
90 and more full years	60% of premium

4.6.5 The Town shall contribute an additional five (5) percentage points towards health care insurance premiums for employees that retire with at least thirty-five (35) accumulated and unused sick days and take not more than three (3) sick days in the last 365 calendar days preceding retirement. Employees that retire with less than 10 accumulated and unused sick days shall receive five (5) percentage points less in “Town Contribution.”

## ADDENDUM G -Drug & Alcohol Policy for CMV Operators

### Introduction

This policy applies to employees and prospective employees of the Town of Manchester who operate commercial motor vehicles (CMVs) or who will operate CMVs if they are hired, transferred or promoted. Employees and prospective employees are not subject to this policy by virtue of holding a CDL unless their job duties may require them to operate a CMV.

All other municipal employees are subject to the provisions of the municipality's personnel policy regarding alcohol and drug use and testing, if applicable.

The policy was developed based on the requirements articulated by the U.S. Department of Transportation (DOT) in Title 49, of the Code of Federal Regulations (CFR).

This personnel policy does not constitute a contract of employment. Employment with the Town of Manchester is **at will** and not for any definite period or succession of periods of time. The Town or the employee may terminate employment at any time, with or without notice. The selectboard reserves the right to amend any of the provisions of this personnel policy for any reason and at any time, with or without notice.

### Section 1: Applicability

This policy applies to all Town of Manchester employees and prospective employees who operate commercial motor vehicles (CMVs) while engaged in any municipal business. This policy supersedes any provisions in the town's personnel policy regarding the consequences of the possession or use of drugs and alcohol as they pertain to CMV operators.

For purposes of this policy,

*Commercial motor vehicle or CMV* means a motor vehicle or combination of motor vehicles as follows:

- Any single vehicle with a gross vehicle weight rating (GVWR) of 26,001 pounds or more.
- A combination vehicle with a gross combination weight rating (GCWR) of 26,001 or more pounds, provided the GVWR of the vehicle(s) being towed is in excess of 10,000 pounds.
- A vehicle designed to transport 16 or more passengers (including the driver).
- Any size vehicle which requires hazardous material placards or is carrying material listed as a select agent or toxin in 42 CFR part 73.

Individuals operating the above vehicles must have a valid commercial driver's license (CDL). Note that emergency vehicles (e.g. fire apparatus) are not CMVs).

Each employee who is subject to this policy is required to sign an acknowledgement that he or she has been provided a copy of this policy. This acknowledgement will be maintained in the town's personnel files as part of the driver qualification file. An acknowledgement form is included as Appendix C.

Given the varied nature of municipal needs, employees who are employed to operate CMVs have the potential to serve in safety-sensitive functions during any part of their job. Therefore, employees are subject to this policy at all times while they are actively working and during periods when they may be called into work (e.g. to respond to weather-related incidents, respond to emergency situations, etc.), as defined in Section 10: Hours of Service of the Town of Manchester Personnel Policy. Safety-sensitive functions and other terms are defined in Appendix A: Definitions.

### **Section 2: Responsibility for Employee Information**

The Town of Manchester has assigned the Human Resources Manager as the individual who can provide employees with information regarding this Drug & Alcohol Policy and answer related questions on the pertinent issues. Employees may also obtain information about applicable Federal regulations from 49 CFR. Sources of information are provided in Appendix B of this policy.

### **Section 3: Prohibited Conduct**

Conduct listed in this section is prohibited.

- Having a verified positive, adulterated or substituted drug test result.
- Performing safety-sensitive functions after notification of a verified positive, substituted or adulterated drug test result or an EBT alcohol test result indicating a measured alcohol concentration of 0.02% or greater, regardless of when the drug or alcohol was ingested and regardless of whether or not the driver is under the influence of alcohol or using drugs, as defined in federal, state or local law.
- Reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR PART 40, as amended.
- Consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. An on-call employee who has consumed alcohol must acknowledge the use of alcohol at the time that he/she is called to report for duty.
- Consuming alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
- Misusing or being impaired by authorized or prescribed use of drugs or over-the counter medications which may affect work performance or pose a danger to the safety of the driver or to others. Drivers are required to inform the employer's designated representative of any therapeutic drug use that has the potential to impact the safe operation of equipment or motor vehicles.
- In cases where prescribed medication labeling suggests that machinery operation or driving may be compromised in any way, the driver shall obtain written authorization from the prescribing physician indicating that the driver is able to safely operate a CMV while using the substance. This must be provided to the municipality prior to operation of said CMV while using the prescribed substance(s).
- Reporting to work or remaining on duty requires the performance of safety-sensitive duties while having an alcohol concentration of 0.02% or greater regardless of when the alcohol was consumed.
- Consuming alcohol for eight (8) hours following involvement in an accident or before submitting to any required post-accident drug/alcohol testing, whichever occurs first.

- Engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the workplace including municipal premises, vehicles, while in uniform or while on municipal business.
- Refusal to submit to alcohol or drug testing, as defined in Section 4, below.

#### **Section 4: "Testing Refusal" Defined**

Under federal law, a test refusal is considered as a positive test and has the same consequences. An employee or prospective employee is considered to have refused a test when s/he does any of the following:

- Fails to appear for any test within a reasonable time, as determined by the employer or testing pool administrator, after being directed to do so by the employer;
- Fails to remain at the testing site until the testing process is complete;
- Fails to provide a urine specimen for any drug test required by Part 40 or DOT agency regulations;
- In the case of an observed collection in a drug test, fails to permit the observation or monitoring of the collection of a specimen;
- Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- Fails to provide an adequate amount of saliva or breath for any alcohol test required, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- Fails or declines to take a second test that the employer or collector has directed the employee to take;
- Fails to undergo a medical examination or evaluation, as directed by the medical review officer (MRO) as part of the verification process, or as directed by the DER as part of the "shy bladder" procedures;
- Fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process);
- If the MRO reports that there is verified adulterated or substituted test result.

#### **Section 5: Testing**

All testing and specimen collection prescribed under this policy will be done in accordance with federal requirements. Prescribed testing includes: pre-employment, random, reasonable suspicion, post-accident, return to duty, and follow-up, if applicable.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (DHHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner, and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.

## **Section 5a: The Drug Testing Process**

The drug testing process will screen for drugs including marijuana, cocaine, opioids, amphetamines, and phencyclidine. The use of certain over-the-counter medications and other substances may result in a positive test.

After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen\_collection procedure. Each specimen will be accompanied by a DOT Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a DHHS certified laboratory.

An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.

The test results from the DHHS certified laboratory will be reported to a Medical Review Officer (MRO). The MRO is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a verified positive, substituted, or adulterated test result. The MRO will:

- Attempt to contact the employee to notify the employee of the non-negative laboratory result and provide the employee with an opportunity to explain the confirmed laboratory test result.
- Review any medical history and/or medical records that have been offered by the employee to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be confirmed as a verified positive or a refusal to test and reported to the Town of Manchester Designated Employer Representative (DER). If a legitimate explanation is found, the MRO will report the test result as negative to the DER and no further action will be taken. If the test is invalid without a medical explanation, a retest will be conducted under direct observation.

Any covered employee who questions the results of a required drug test performed under this policy may request that the split specimen be tested. The employee's request for a split specimen test must be made to the MRO within 72 hours of notice of the original specimen verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts beyond the control of the employee.

The original collected urine specimen is split into 2 specimens (primary specimen and split specimen) prior to testing, expressly for this purpose. The split specimen test must be conducted at a second DHHS-certified laboratory with no affiliation with the laboratory that analyzed the primary specimen. The test must be conducted on the split specimen that was provided by the employee at

the same time as the primary specimen. The method of collecting, storing, and testing the split specimen will be consistent with the procedures set forth in 49 CFR Part 40, as amended.

***Any covered employee, who elects to have a split specimen tested, agrees to fully reimburse the municipality for all costs associated with the testing. Reimbursement may be recouped via payroll deduction, or any other mutually agreeable method(s).***

- If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled and will direct a retest of the employee under direct observation. The retest must occur as quickly after notification as possible.
- The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen tests negative, the split specimen will be discarded. If the primary specimen tests positive, the split specimen will be retained for testing if so requested by the employee through the MRO. If the primary specimen is positive, both the primary and split specimens will be retained in frozen storage for one year.

#### **Section 5b: Observed Collections**

Consistent with 49 CFR Part 40, collection under direct observation by a person of the same gender with no advance notice will occur in any of the following circumstances:

- The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to the municipality that there was not an adequate medical explanation for the result;
- The MRO reports to the municipality that the original positive, adulterated, or substituted test result had to be canceled because the test of the split specimen could not be performed;
- The test is a return-to-duty test or a follow-up test;
- The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- The temperature of the original specimen was out of range; or
- The original specimen appeared to have been tampered with.

#### **Section 5c: The Alcohol Testing Process**

Tests for breath alcohol concentration will be conducted by a trained Breath Alcohol Technician (BAT) using a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT).

If the initial test results indicate that alcohol is present, a confirmatory test will be conducted at least fifteen minutes after the completion of the initial test and will be performed by a trained BAT using a NHTSA-approved EBT. The EBT will identify each test with a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT

printout, along with an approved alcohol testing form, will be used to document the testing, all results, and to attribute the test to the correct employee.

The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee, to maintain the integrity of the alcohol testing procedures and ensure the validity of the test result. An employee who has a confirmed alcohol concentration of 0.04% or higher will be considered to have a positive alcohol test and will be in violation of this policy. The consequences of a positive alcohol test are described in the section below.

#### Section 6: Consequences of a Positive Test.

An employee undergoing alcohol testing who does not provide a sufficient amount of breath to permit a valid breath test will be directed to obtain an evaluation within 5 days, from a licensed physician who has expertise in the medical condition raised by the employee's failure to provide a sufficient specimen. The results of this evaluation will be reviewed by the MRO to determine the result of the test.

Even though an employee who has a confirmed alcohol concentration of 0.02% to 0.039% is not considered to have had a positive test, the employee shall still be removed from safety-sensitive duties for twenty-four hours.

Subsequent to the required 24-hour removal, the employee will:

- Meet with the HR Manager, Manager of DPW or Manager of Water/Sewer and the Town Manager, as needed, to review the need to avoid alcohol use from any source during or proceeding work hours.
- If the employee has an alcohol test result of 0.02% to  $\leq$  0.039% two or more times within a six month period, the employee will again meet with a municipal representative from the list above to review the need to avoid alcohol use. The employee will be provided by Human Resources or Department Manager with contact and related information for the EAP program (currently Invest EAP). There is no requirement that the employee access those services.

An alcohol concentration of less than 0.02% will be considered a negative test.

The municipality affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not affect the test result will not result in a canceled test.

#### **Section 5d: Pre-employment Testing**

When an individual applies to work for the town in a position that involves the operation of a CMV, or when a municipal employee is under consideration for a position that involves the operation of a

CMV, that person will be required to undergo pre-employment urine **drug** testing. All offers of employment and offers for transfer for covered positions shall be conditional upon the applicant passing the drug test. Pre-employment testing must be completed **prior** to the individual working in the new position.

Pre-employment drug testing will be accomplished by providing advance notice of the test schedule and location to the position applicant. The length of the advance notice period will be kept as short as is reasonably feasible to coordinate and complete the test.

If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded. Prior to future consideration for employment performing safety sensitive duties, the municipality must receive evidence from a substance abuse professional that meets with the requirements 49 CFR part 40 as amended, regarding the absence of drug dependency. A negative pre-employment drug test will also be required.

Any applicant who fails a pre-employment drug test will be provided the results of the test along with the current Invest EAP brochure. This serves to provide the individual with information about substance abuse treatment opportunities.

When an existing employee is being placed, transferred, or promoted into a position that is covered by this policy and that person submits a drug test with a verified positive result, the employee may be subject to disciplinary action as outlined in the municipal personnel policies. That employee will also be eliminated from consideration for the position which triggered the need for the pre-employment test.

If a pre-employment/pre-transfer test is canceled for any reason, the applicant will be required to take and pass a pre-employment drug test before the individual is placed into a covered CDL position or performs safety sensitive duties.

### **FMCSA Clearinghouse**

Effective January 6, 2020 in accordance with 49 CFR, all drivers shall be subjected to a query of the FMCSA Clearinghouse prior to employment as well as yearly throughout the driver's employment with this company. This is an employer responsibility.

Drivers should also note that the following information will be reported to the Clearinghouse by both the Medical Review Officer, the Consortium/TPA and/or the employer. Drivers who fail to provide the necessary authorization to complete the initial or annual query will be subject to termination.

- A verified positive, adulterated, or substituted drug test result;
- An alcohol confirmation test with a concentration of 0.04 or higher;
- A refusal to submit to a drug or alcohol test;
- An employer's report of actual knowledge, as defined at 49 CFR § 382.107;
- On -duty alcohol use pursuant to 49 CFR § 382.205;
- Pre-duty alcohol use pursuant to 49 CFR § 382.207;

- Alcohol use following an accident pursuant to 49 CFR § 382.209;
- Drug use pursuant to 49 CFR § 382.213;
- SAP's report of the successful completion of the return-to-duty process;
- A negative return-to-duty test; and,
- An employer's report of completion of follow-up testing.

### **Section 5e: Random Testing**

All municipal CDL drivers are placed in the VLCT PACIF-sponsored Drug & Alcohol Testing Consortium that is operated by the third party administrator, Occupational Drug Testing, LLC (ODT). These employees are subject to random, unannounced testing. There is no discretion on the part of the employer or supervisor in the selection and notification of the individuals who are to be tested. The selection of employees is made by a scientifically valid method of randomly generating an employee identifier from the pool of covered employees.

The dates for administering unannounced testing are randomly selected each quarter, with a minimum percentage of the pool's drivers selected for drug testing, alcohol testing, or both as required by Federal regulations and updated each calendar year.

Random drug tests can be conducted at any time during an employee's shift. Random alcohol tests can be performed just before, during, or just after the performance of a safety-sensitive duty. Employees are required to proceed immediately to the collection site or make themselves immediately available to collectors when they are notified that they have been selected for testing.

### **Section 5f: Reasonable Suspicion Testing**

All covered employees will be subject to a reasonable suspicion drug and/or alcohol test when there is a reasonable suspicion to believe that drug or alcohol use is occurring, has recently occurred, or that the person is under the influence of drugs or alcohol. "Reasonable suspicion" shall mean that there is objective evidence, based upon specific, contemporaneous, describable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse.

Reasonable suspicion drug test referrals will only be made by a supervisor or other designated individual with employee monitoring and assignment responsibilities who has received "reasonable suspicion training" in accordance with FMCSA regulations. The training ensures that supervisors or other designated employees with similar responsibilities have the skills and knowledge to objectively detect the signs and symptoms of drug and alcohol use in employees covered by this policy.

A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. A reasonable suspicion drug test can be performed any time the covered employee is on duty.

The Town of Manchester shall be responsible for transporting the employee who will be tested to a suitable testing site identified by ODT. Transport shall include travel to and from the location and to the individual's residence, as they should not be permitted to work when they may be under the influence of a drug or alcohol.

Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. An employee who refuses an instruction to submit to a reasonable suspicion drug/alcohol test shall not be permitted to finish his or her shift and will be subject to other employment consequences. Failure to submit to a reasonable suspicion test is prohibited conduct (test refusal), the consequences of which are outlined in Section 6: Consequences of a Positive Test.

A written record of the observations that led to a reasonable suspicion drug/alcohol test shall be prepared and signed by the supervisory individual making the observation. This record shall be prepared prior to the release of the test results. This written record shall be submitted to the Human Resource Manager.

**Section 5g: Post Accident Testing**

All covered employees will be required to undergo post-accident urine and breath testing if they are involved in an accident with a CMV that meets the criteria outlined in the following chart:

If the accident involved any of the following:	Qualifying event: Was a citation issued to the CMV driver?	Must the test be performed by employer?
Human fatality	YES	<b>YES</b>
Human fatality	NO	<b>YES</b>
Bodily injury with immediate medical treatment away from the scene.	YES	<b>YES</b>
Bodily injury with immediate medical treatment away from the scene.	NO	NO
Disabling damage to any motor vehicle requiring tow away.	YES	<b>YES</b>
Disabling damage to any motor vehicle requiring tow away.	NO	NO

All post-accident drug and alcohol testing should be completed within 2 hours of the accident. If an alcohol test required by this section is not administered within two hours following the accident, the municipality will document and maintain a record stating the reason(s) why the test was not promptly administered. If an alcohol test required by this section is not administered within eight hours following the accident, the municipality will cease attempts to administer an alcohol test and will document the conditions that led to the time delay and failure to test.

If a drug test required by this section is not administered within 32 hours following the accident, the municipality will cease attempts to administer a controlled substances test and will document and maintain a record stating the reasons the test was not given within the required timeframe.

### **Section 6: Consequences of a Positive Test**

The medical review officer will report positive test results to the DER only after verifying the test results as outlined in 49 CFR, Part 40 as amended. When the DER is notified of this positive test result, the employee will be immediately suspended from operating CMVs and other safety-sensitive duties for the municipality and will be referred to a Substance Abuse Professional (SAP) for substance abuse assessment and/or treatment.

On the day that the positive test results are received, the employee will be suspended from all duties with pay. Subsequent to that, the employee may be suspended without pay. The employee's length of suspension will run the period of time in which it takes the individual to satisfactorily complete the treatment (as confirmed by the treating SAP), and last for up to 3 months from the date the positive test result was received. After that period, if the employee has not successfully completed treatment, the employee may be terminated.

Any employee who has an initial positive test and has the split sample tested and obtains a negative result will immediately be permitted to return to their normal job duties.

An employee who provides written documentation from an SAP that substance abuse treatment has been satisfactorily completed within the 3-month suspension period must fulfill all return to duty testing requirements in Section 7: Return to Duty Testing prior to performing any safety-sensitive duties. Follow-up testing will also be required as directed by the SAP.

An employee who has a second positive test after completing return to duty testing may be terminated.

### **Section 7: Return to Duty Testing**

Covered employees having a positive test will not be permitted to return to duty (to safety sensitive functions) until after a substance abuse professional has determined that the employee has successfully complied with prescribed education and/or treatment. The SAP will authorize the return to duty testing only when the employee is known to be drug and alcohol-free and there is no risk to public safety. The SAP will provide written documentation that the treatment has been completed and that the employee may undergo return to duty testing. The employee will then be allowed to take a return-to-duty test, as directed by the treating SAP.

The employee must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02 before they may return to duty. For an initial positive drug test, a return to duty drug test is required and an alcohol test is allowed. For an initial positive alcohol test, a return to duty alcohol test is required and a drug test is allowed. Return to duty testing MUST be performed under direct observation.

## **Section 8: Follow-Up Testing**

After satisfactory completion of return to duty testing, the driver is required to submit to at least 6 follow up tests during the first 12 months after resuming safety-sensitive duties. Follow-up testing may be required for up to 60 months unless the substance abuse professional determines that testing is no longer warranted. The number and frequency of follow-up tests will follow the written guidance provided by the treating SAP. All follow-up tests are unannounced and may include testing for drugs and/or alcohol.

Follow-up alcohol testing will be conducted only when the driver is performing or just before performing safety sensitive functions, or just after the driver has ceased performing safety-sensitive functions. Follow-up testing **MUST** be performed under direct observation.

Follow-up testing is separate from and in addition to random, post-accident, reasonable suspicion, and return to duty testing.

## **Section 9: Employee Information**

Employees are encouraged to seek information regarding the effects of alcohol and controlled substances and their health, employment, and personal life. Such information is available at:

[http://www.samhsa.gov/;](http://www.samhsa.gov/)

<http://www.fmcsa.dot.gov/rules-regulations/topics/drug/drug.htm>

<http://www.investeap.org/>

<http://www.dot.gov/odapc/employee-handbook-english>

## **APPENDIX A: Definitions**

**Accident** means an occurrence associated with the operation of a CMV, if as a result:

- An individual dies, or
- An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident, or,
- One or more vehicles incur disabling damage as the result of the occurrence and are transported away from the scene by a tow truck or other vehicle. For purposes of this definition, **disabling damage** means damage that precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include:
  - damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, or
  - tire disablement without other damage even if no spare tire is available, or
  - damage to headlights, taillights, turn signals, horn, mirrors or windshield wipers that makes them inoperative.

**An adulterated specimen** is a specimen that has been altered, as evidenced by test results showing either a substance that is not normally found in that type of specimen or showing an abnormal concentration of a substance that is normally found in that specimen.

**Alcohol** means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

**Alcohol Concentration** is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath-testing device (EBT).

**Commercial motor vehicle** means a motor vehicle or combination of motor vehicles used in commerce, to transport passengers, or property if the motor vehicle:

- Has a gross combination weight rating of 11,794 or more kilograms (26,001 or more pounds) inclusive of a towed unit with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds); or
- Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds); or
- Is designed to transport 16 or more passengers, including the driver; or
- Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

**Covered Employee** means an employee who performs a safety-sensitive function including an applicant or transferee who will be hired to perform a safety-sensitive function. Employees who operate CMVs are considered to be performing safety-sensitive functions.

**Medical Review Officer (MRO)** means a licensed physician (medical doctor or doctor of osteopathy) who is responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history and any other relevant bio-medical information.

**Negative test result** for a drug test means a verified presence of the identified drug or its metabolite below the minimum levels specified in 49 CFR Part 40, as amended. An alcohol concentration of less than 0.02% BAC is a negative test result.

**Negative Dilute** is a drug test specimen showing a creatinine level of greater than 5mg/dl and less than 20 mg/dl.

**Non-negative test result** is a test result found to be adulterated, substituted, invalid, or positive for a drug or drug metabolites. Non-negative results are considered a positive test or a refusal to test if the MRO cannot determine a legitimate medical explanation for the result or the refusal.

**Observed Collection** means the donor will provide his or her sample under the direct observation of either a collector or another individual of the same gender. The donor must raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show

the observer, by turning around, that he/she does not have a prosthetic device. After the observer has determined that the donor does not have a prosthetic device, the donor may return his/her clothing to its proper position for observed urination.

**Positive test result** for a drug test means a verified presence of the identified drug or its metabolite at or above the minimum levels specified in 49 CFR Part 40, Section 40.87 as amended. A positive alcohol test result means a confirmed alcohol concentration of 0.04% BAC or greater. Any positive test result reported to the DER by the medical review officer is verified by the MRO prior to reporting.

**Primary specimen.** In drug testing, the primary specimen is the urine specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of validity testing. The primary specimen is distinguished from the split specimen, defined in this section.

**Prohibited drug** means marijuana, cocaine, opiates, amphetamines, phencyclidine, or MDMA (ecstasy) at levels above the minimum thresholds specified in 49 CFR Part 40, as amended.

**Safety-sensitive function** includes the timeframe that begins when a driver starts work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

- All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
- All time inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- All time spent at the driving controls of a commercial motor vehicle in operation;
- All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth;
- All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

**Shy Bladder** refers to any time a safety-sensitive employee is unable to provide a 45ml. sample of urine in a single void within a three hour time period.

**Split specimen.** In drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

**Substance Abuse Professional (SAP)** means a licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and

other Drug Abuse) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

**Verified negative test** means a drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use above the minimum cutoff levels established in DOT Rule 49 CFR Part 40 Section 40.87 as revised.

**Validity testing** is the evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

#### **APPENDIX B: Contacts & Information**

##### **DISA (formerly OCCUPATIONAL DRUG TESTING, LLC)**

Manchester, NH  
800-211-4469

##### **VLCT/PACIF**

Risk Management Services  
89 Main St. Montpelier, Vermont 05602  
802-229-9111

##### **INVEST EAP (SAP services)**

108 Cherry Street, Suite 203  
Burlington, Vermont 05401  
MAIN OFFICE: 888.392.0050  
FAX: 802.863-7515  
staff@investeap.org

#### **Employee Access to Information**

49 CFR part 40 and 49 CFR part 382 must be available upon request to covered employees and representatives of employee organizations. 49 CFR part 40 is accessible on line at <http://www.dot.gov/ost/dapc>, by fax on demand at 1-800-225-3784 requesting document 151, by phone at 1-866-512-1800, or by writing to U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance, 400 Seventh Street SW, Room 10403, Washington, D.C. 20590.

**APPENDIX C: CMV Drug & Alcohol Testing Policy-Acknowledgement Form**

**Town of Manchester**

I HEREBY ACKNOWLEDGE that I have received a copy of and read and understand my employer's **CMV Drug & Alcohol Testing Policy**. I understand that I must abide by its terms as a condition of employment. I understand that during my employment I may be required to submit to a controlled substances and/or alcohol test based on U.S. Department of Transportation (DOT) and Federal Motor Carrier Safety Administration (FMCSA) regulations.

I also understand that refusal to submit to a controlled substances or alcohol test is a violation of DOT regulations and the above referenced policy and may result in disciplinary action, including suspension (with or without pay) or termination of employment for gross and willful misconduct. I further understand the consequences of controlled substances and/or alcohol use as outlined in this policy.

I acknowledge that the provisions of my employer's CDL Drug and Alcohol Policy are part of the terms and conditions of my employment, and that I agree to abide by them.

By signing below, I also acknowledge that I understand the meaning of this form and agree that it will be used to document my understanding of the CDL Drug & Alcohol Testing Policy.

Printed Name of Employee/Applicant: \_\_\_\_\_

Signature of Employee/Applicant: \_\_\_\_\_

\_\_\_\_\_  
Employee/Applicant CDL ID #

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

Witness Signature: \_\_\_\_\_

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

***Original Acknowledgment of Receipt and Understanding will be kept in the Driver's Qualification File. Check here  to confirm copy given to employee/applicant.***

**APPENDIX D: Drug Cutoff & Testing Limits as per DOT Rule 49 CFR Part 40 Section 40.87**

Initial test analyte	Initial test cutoff <sup>1</sup>	Confirmatory test analyte	Confirmatory test cutoff concentration
Marijuana metabolites (THCA) <sup>2</sup>	50 ng/mL <sup>3</sup>	THCA	15 ng/mL.
Cocaine metabolite (Benzoylecgonine)	150 ng/mL <sup>3</sup>	Benzoylecgonine	100 ng/mL.
Codeine/ Morphine	2000 ng/mL	Codeine Morphine	2000 ng/mL. 2000 ng/mL.
Hydrocodone/ Hydromorphone	300 ng/mL	Hydrocodone Hydromorphone	100 ng/mL. 100 ng/mL.
Oxycodone/ Oxymorphone	100 ng/mL	Oxycodone Oxymorphone	100 ng/mL. 100 ng/mL.
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL.
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL.
Amphetamine/ Methamphetamine	500 ng/mL	Amphetamine Methamphetamine	250 ng/mL. 250 ng/mL.
MDMA <sup>4</sup> /MDA <sup>5</sup>	500 ng/mL	MDMA MDA	250 ng/mL. 250 ng/mL.

<sup>1</sup>For grouped analytes (i.e., two or more analytes that are in the same drug class and have the same initial test cutoff):

*Immunoassay:* The test must be calibrated with one analyte from the group identified as the target analyte. The cross-reactivity of the immunoassay to the other analyte(s) within the group must be 80 percent or greater; if not, separate immunoassays must be used for the analytes within the group.

*Alternate technology:* Either one analyte or all analytes from the group must be used for calibration, depending on the technology. At least one analyte within the group must have a concentration equal to or greater than the initial test cutoff or, alternatively, the sum of the analytes present (i.e., equal to or greater than the laboratory's validated limit of quantification) must be equal to or greater than the initial test cutoff.

<sup>2</sup>An immunoassay must be calibrated with the target analyte,  $\Delta$ -9-tetrahydrocannabinol-9-carboxylic acid (THCA).

<sup>3</sup>*Alternate technology (THCA and Benzoylecgonine):* When using an alternate technology initial test for the specific target analytes of THCA and Benzoylecgonine, the laboratory must use the same

cutoff for the initial and confirmatory tests (i.e., 15 ng/mL for THCA and 100ng/mL for Benzoyllecgonine).

<sup>4</sup>Methylenedioxyamphetamine (MDMA).

<sup>5</sup>Methylenedioxyamphetamine (MDA).

**NOTE: These cutoff limits may be subject to periodic revision by DOT.**

*[65 FR 79526, Dec. 19, 2000, as amended at 75 FR 49862, Aug. 16, 2010; 77 FR 26473, May 4, 2012; 82 FR 52244, Nov. 13, 2017]*