

TOWN  
OF  
CHATHAM

PERSONNEL POLICIES

JULY 1, 1996

TOWN OF CHATHAM - PERSONNEL POLICIES - JULY 1, 1996

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TOWN OF CHATHAM

PERSONNEL POLICIES

SECTION 1 - AUTHORIZATION AND APPLICATION

a. The following Rules and Regulations for a personnel system for the Town of Chatham are hereby adopted by the Town Manager in accordance with Part V Section 3 of the Chatham Home Rule Charter. These Rules and Regulations together with the accompanying schedules, pay groups, compensation plans and related documents shall be known as the Town of Chatham's Personnel Policies. The Policies shall be subject to annual approval by the Board of Selectmen and may be amended from time to time by the Town Manager. The Town Manager shall review amendments with the appropriate department head and employee(s). These Personnel Policies shall apply to all employees except those positions filled by popular election and those positions under the jurisdiction of the School Committee. For positions covered by collective bargaining agreements or any other special employment agreement, the provisions of the Personnel Policies apply except where such agreement contains a condition contrary to the provisions of the Personnel Policies. In such instances the provisions of the collective bargaining agreement or other agreement shall prevail.

b. Plans shall be established:

1. Classifying positions in the service of the Town into groups and classes according to knowledge required, work duties, and levels of responsibility,
2. Authorizing a Compensation Plan for positions covered by the Personnel Policies,
3. Providing for the administration of said classification and compensation,
4. Governing the recruitment, selection, promotion, appraisal, retention, layoff, and discipline of all employees covered by these Policies, and
5. Establishing certain working conditions and fringe benefits for employees covered by these Policies.

c. The Town is an Equal Opportunity Employer. Discrimination against any person in recruitment, examination, appointment, training, promotion, transfer, retention or other personnel action because of political affiliation, race, color, creed, national origin, age, sex, physical handicap or other non-merit is prohibited except where such factor is a bona fide occupational requirement.

## SECTION 2 - STATEMENT OF PURPOSE

It shall be the purpose of these Policies to provide to Department Heads, Supervisors, and employees policies for assuring the maintenance of an equitable personnel management system in and for the Town of Chatham. The policies are designed to promote the efficiency, economy, and common understanding of employment in Chatham Town government, to promote the positive morale and well-being of employees and, as well, to encourage candidates to seek employment in the Town.

## SECTION 3 - DEFINITIONS

As used in these Personnel Policies, words and phrases referenced below shall have the following meanings unless a different construction is clearly required by the context or by the Laws of the Commonwealth.

**ADMINISTRATIVE AUTHORITY:** The elected official or Board, or the appointed official or Board having jurisdiction over a function or activity.

**APPOINTING AUTHORITY:** The Town Manager unless otherwise designated in the Chatham Home Rule Charter.

**COMMITTEE:** The Personnel Advisory Committee as defined in Section 4 following.

**CASUAL SERVICE:** Service rendered by an individual in a position which does not constitute continuous employment; this service being rendered occasionally and without regularity according to the needs of the Town.

**CIVIL SERVICE LAW:** Chapter 31 of the General Laws of the Commonwealth, as amended, and all rules and regulations made there under; and any special law enacted by the General Court regulating the classification, compensation and conditions of employment of officers and employees of the Town under Chapter 31.

**CLASSIFICATION PLAN:** A plan of Classification Schedules whereby positions are described in writing and evaluated under a standard system, and grouped according to the relative value of each position to other positions.

**COMPENSATION PLAN:** Existing wage and salary schedules and administrative procedures established for each occupational group.

**CONTINUOUS EMPLOYMENT:** Employment (either full-time or part-time) requiring a pre-determined minimum work week which is uninterrupted except for required military service, sick leave or for authorized vacation or other bona-fide leaves of absence.

CONTINUOUS SERVICE DATE: The date which indicates the starting point for calculating an employee's years of service to recognize Longevity Pay or other service-related benefits.

CONTRACTUAL SERVICE: Service performed which is not subject to the control of the Town either in terms of "where it shall be done" and "how it should be done", and/or of which the Town does not have legal right to control the method or the result of the services except for practices which would knowingly violate Town laws and/or safe practice guidelines.

COST OF LIVING ADJUSTMENT: An adjustment in pay schedules and/or an employee's pay to help employees maintain a consistency in lifestyle despite changes in external economic conditions.

DEPARTMENT: Any Department, Board, Committee, Commission, or other agency of the Town subject to these Personnel Policies.

DEPARTMENT HEAD: An Administrative Authority or an appointed employee responsible for the daily supervision of a department and for the delivery of a municipal service.

EMPLOYEE: A person occupying a position subject to the Personnel Policies.

GROUP: An occupational group of classification titles appearing in Classifications A through G of Section 25.

IMMEDIATE HOUSEHOLD: An employee's permanent abode.

INCREMENT: The monetary difference between two consecutive Pay Steps.

INTERMITTENT SERVICE: Service of employment which is not continuous.

LONGEVITY PAY: A lump sum payment made in recognition of an employee's years of consecutive employment with the Town.

MAXIMUM PAY: The highest amount of pay in a Pay Grade Range.

MINIMUM PAY: The lowest amount of pay in a Pay Grade Range.

NEW POSITION: An approved additional position which is not at the time listed in the current Schedules of the Classification Schedules.

NORMAL WORK WEEK: That scheduled time within a payroll week during which an employee is expected to work.

FULL-TIME EMPLOYMENT: Employment for the maximum number of hours per day for five days per week for fifty two weeks per year as specified in Schedules A, B, C and D of Section 25 of these Policies.

PART-TIME EMPLOYMENT: Employment which is in any way less than full-time.

PAY GRADE: The pay level ascribed to a position based on the Town's accepted system of job evaluation.

PAY STEP: One of a series of intervals by which a Pay Range is divided into distinct units of pay.

PAY STEP RATE: The monetary amount determined by dividing weekly or monthly pay by an employee's normal hours of work, normally listed in the Compensation Schedules.

PAY RANGE: The money difference between Minimum Pay and Maximum Pay in any given Pay Grade.

PAYROLL WEEK: The seven (7) day period as defined in these Personnel Policies.

PERMANENT EMPLOYEE: An employee who has satisfactorily completed the Probationary Period, and who is retained on a continuing basis in a permanent position.

PERMANENT POSITION: A position in the Town service which has required or which is likely to require the services of an employee without interruption for a period of not less than 52 consecutive weeks either on a full-time or part-time basis.

PERSONAL RATE: A pay level which, due to extenuating circumstances, places an employee's compensation above or below the Pay Range for the position held. Pay at a Personal Rate shall be administered uniquely until such time as the employee is placed in a position with a Pay Rate that encompasses his/her amount of pay, or until adjustments to pay Ranges bring the employee's compensation in line.

POSITION: An office or post of employment in the Town service with duties and responsibilities calling for the full-time or part-time employment of one or more persons in the performance and exercise thereof.

PROBATIONARY PERIOD: A defined period of time for both the supervisor and the employee to assess the ability of the employee to perform the duties and tasks of the position. During this period the Town may terminate the employment relationship without redress.

PROMOTION: An act by management to elevate an employee from an existing position of lower grade and pay to a new or existing position with increased responsibilities and in a higher Pay Grade and compensation level, and whereby such action creates a vacancy in the position previously held by the promoted employee.

RATE: A sum of money designated as compensation for hourly or bi-weekly pay.

RECLASSIFICATION: An action by the Town Manager to use the Classification Plan to re-grade an existing position of the Town to a higher or lower Pay Grade due either to a reorganization or a need to change a position's responsibilities, organizational level, or other elements of job content. (Note: A reclassification of a position to a higher Pay Grade shall not constitute a Promotion of an incumbent employee for salary increase purposes. A pay adjustment shall be required to insure that the incumbent employee's pay is within the Pay Range of the new Pay Grade.)

REGULAR PART-TIME EMPLOYEE: An employee in a permanent position who works less than full time.

TEMPORARY EMPLOYEE: An employee retained in a temporary position.

TEMPORARY POSITION: A position of employment established for a limited time period, normally not more than six (6) months.

SEASONAL POSITION: Any position in the Town service which requires, or which is likely to require, the services of an employee for less than 36 weeks in a fiscal or calendar year and is needed to meet seasonal service demands such as: life guards, park employees, etc.

TOWN: The Town of Chatham, Massachusetts.

#### SECTION 4 PERSONNEL ADVISORY COMMITTEE

a. There shall be a Personnel Advisory Committee consisting of seven (7) members appointed by the Board of Selectmen, one member to be a Town employee not otherwise represented by a collective bargaining unit, in accordance with Part V Section 3 of the Town Charter.

b. The Personnel Advisory Committee, as provided for in the Town Charter, shall serve in an advisory capacity to the Town Manager on overall personnel practices and policies. In such capacity the committee shall annually review these policies and changes being considered by the Town Manager and make recommendations to the Town Manager on same.

c. In addition to the above, the Personnel Advisory committee shall perform those functions specifically set forth in these Personnel Policies.

d. The Personnel Advisory committee, on matters referred by the Town Manager, may advise the Manager on interpretation of various provisions of the Personnel Policies, when the intent of a particular policy is unclear.

## SECTION 5 - TOWN MANAGER

a. As provided for in Part IV - Section 7 (k), (l) and (m) of the Town of Chatham Home Rule Charter, the Town Manager shall administer these Personnel Policies; Compensation Plans and related matters, and shall establish necessary procedures for such administration.

b. The Town Manager shall maintain the central personnel records for employees covered by these Personnel Policies.

c. The Town Manager may investigate the work features and rates of salaries or wages of any or all positions subject to the provisions of these policies. Such reviews shall be made at such intervals as the Manager deems necessary and, to the extent deemed necessary may include all occupational groups in the Classification Plan.

d. The Town Manager shall maintain a written description or specification of each position in the Classification Plan.

e. The Town Manager as provided for in Part IV, Section 7 (l) of the Charter may fix the compensation of a newly appointed employee between the minimum pay and mid-point of the pay range for the position. The Town Manager may fix the starting compensation above the mid-point upon approval of the Board of Selectmen when supported by information justifying such action.

f. The Town Manager from time to time may adopt amendments to these policies, add or delete positions to the Classification Plan and amend individual classifications in special circumstances, such as reorganizations, etc. Any such amendments shall be filed with the Personnel Advisory Committee and the Board of Selectmen. The Town Manager shall review such amendments with the appropriate department head and employee(s).

## SECTION 6 CLASSIFICATION PLAN

a. All positions in the service of the Town except those excluded by Section 1 are hereby classified by job titles appearing in Classification Schedules A through G of Section 25. These groupings of positions shall constitute the Classification Plan for paid Town service.

b. The title of each position, as established by the Classification Plan, shall be the official title and shall be used on payrolls, budget estimates and all other official records and reports pertaining to the position.

c. Whenever a new position is established by the Town Manager or whenever the duties of an existing position are so changed that, in effect a

new position is warranted and/or the Manager considers that any of these actions to be necessary for the proper functioning of Town services, the Manager shall authorize and allocate such new or changed positions to the appropriate Pay Grade. The Manager shall, at the time of such action, stipulate whether the change shall constitute a promotion or grade reclassification as it affects the incumbent's rate of pay, and such action on the part of the Manager shall, however, be subject to ratification by the Board of Selectmen at its next annual review and approval of these Personnel Policies.

d. Requests for establishing a new position or for reclassification of an existing position may be initiated by any Department Head by filing a completed Personnel Classification Study form and substantiating data with the Town Manager. The Manager will take definitive action on any such request within 90 days thereafter from its receipt.

e. Any employee who is assigned temporarily by the Appointing Authority to a position in a higher pay grade, and assumes all the duties required of the position for a period of more than three consecutive working days, shall receive the Pay Step of the Pay Range of the vacant position next above the employee's present Pay Step. If the resulting adjustment does not equal \$100.00 per year, (or \$.05 per hour for a position level assigned to an hourly schedule), the adjustment shall be to the second Pay Step above the present step as long as the result is within the Pay Range of the vacant position.

Notwithstanding the foregoing, certain employees are expected to perform, on an interim basis, in the place of the supervisor or Department Head without additional compensation. Should an assistant perform these duties for more than 30 consecutive days, the Appointing Authority shall apply the provisions of this section as of the 31st day.

In the event that an Assistant performs less than all, but a significant portion of, the duties of the higher position for more than the said 30 days, the Town Manager shall review the functions performed and determine a temporary position classification for the position.

If the temporary position exceeds six months, the Appointing Authority shall review the assignment with the Board of Selectmen to establish a termination date for the position (not to exceed an additional six (6) months) or establish a new position subject to Classification and hiring policies described.

f. Each person promoted or appointed to a Permanent Position shall be required to successfully complete a Probationary Period of six months during which the Appointing Authority or Department Head shall observe the employee's ability to perform the various duties of the position. Prior to the end of the

Probationary Period, the Department Head shall file a written evaluation of performance, such evaluation to include a recommendation for or against continued service in Town employment. In the event a promoted employee is found not to have met the requirements of the position, the employee may be permitted to return to the position and wage rate formerly held. In the event a new employee to Town service is found not to have met the requirements of the appointment, such person shall be notified prior to the end of the Probationary Period and shall be terminated with a minimum of two weeks notice or equivalent severance pay. Such termination will not necessarily have an adverse affect on future employment in Town service.

A Department Head, and in the case of a Department Head the Appointing Authority may extend the probationary period by not more than an additional three months, but shall notify the employee of such extension in writing prior to the expiration of the initial six (6) months.

#### SECTION 7 .COMPENSATION PLAN

a. The Compensation Plan shall consist of Compensation Schedules A-1 through F-1 set forth in Section 25 which provide minimum and maximum salaries or wages for certain of the groups in the Classification Plan or Section 7.f if appropriate.

b. No salary or wage of any employee in a position so classified shall be fixed except in accordance with the Compensation Plan.

c. No person shall be appointed or employed in any position subject to the provisions of the Classification and Compensation Schedules under any title other than those appearing on Schedules A through F-1 of Section 25, except as provided in Section 8.b.

#### d. Pay Increases -Adjustments and Merits

An employee in continuous full-time or part-time employment in a class appearing on Schedules set forth in Section 25 shall receive a pay adjustment from his or her present pay step to the next higher pay step in accordance with the following:

1. After completion of one year at the minimum or entrance rate.
2. Thereafter, one year from the date of his/her previous increase until the maximum is reached.
3. The increase in rate which this increment represents must be recommended by the employee's Department Head.

4. The increase shall be based on satisfactory performance of the employee during the preceding 12 month period and not solely on length of service.

e. Promotion Increases

An employee receiving a Promotion to a vacant or new position, as previously defined, shall, upon assignment resulting from such Promotion, receive, as a minimum, the compensation equivalent of the first Pay Step of the Salary Range for the newly occupied position. If, however, such action does not provide an increase in the employee's pay of at least two Pay Steps, the employee's pay shall be adjusted, within the new position's salary range, to the Pay Step which will provide the equivalent of at least a two Pay Step increase.

f. Personal Pay Rate

If any employee's pay at the time of the adoption of these Personnel Policies or as a result of action taken by the Town management is in excess of the maximum of the Pay Range set forth in his/her appropriate compensation level, the employee's pay shall not be reduced, but shall be administered as a Personal Rate applicable only to said employee. When a job change or adjustment in the pay Range brings the employee back into the Pay Range, the employee's compensation will be administered thereafter on the basis of the nearest Pay Step of that range that would not produce a decrease in salary.

g. Transfers

(1) The employee who is transferred to a same graded or lower graded position for the convenience of the Town shall enter the new position at the pay Step held in the new position which most nearly matches the employee's pay at the time of the transfer. If the employee's existing pay proves to be higher than the maximum of the Pay Range of the new position the employee's salary shall be administered as described in f. above.

(2) An employee who voluntarily transfers into another position of a lower grade, not due to re-organization and not for the convenience of the Town shall have his or her pay set within the limits of the pay range of the grade for the position into which the employee is transferring as close to the employee's existing pay as the grade allows.

h. The bi-weekly rate of an employee who is "regular part-time" shall be pro-rated according to the work week assigned to his/her occupational group.

i. The Administrative Authority in conjunction with the Town Manager shall include in its budget estimates, a pay adjustment section setting forth in detail the amounts which will be required for anticipated pay increases during the ensuing year.

j. In the case of less than satisfactory service of a permanent employee, which shall include but not be limited to insubordination, poor attendance, and/or inability to perform a class of work, the Department Head may recommend to the Town Manager in writing that the employee's pay be reduced to a lower Pay Step within the appropriate Pay Range. Prior to approving or disapproving such recommendation the Town Manager shall meet with the employee involved and with the Department Head.

k. Cost of Living Adjustment

A Cost of Living Adjustment (COLA) may be granted to help employees maintain their same relative economic position in the event of increases in the national cost-of-living as reported by the Bureau of Labor Statistics. The Town Manager, after consulting with the Personnel Advisory Committee shall recommend a percentage adjustment to be effective at the start of each fiscal year by which non-union wages and salary schedules may be increased and, at which time, the base pay of affected employees in said positions shall have their pay adjusted accordingly by said percentage, such recommendation subject to appropriation of funds by Town Meeting.

l. Professional Growth Recognition Pay

Professional Growth Recognition may be granted to an employee who enhances his or her position and the professional strength of Town government by the successful, documented receipt of a college degree, professional certification, license, or related combination of special training and achievement. Following a recommendation from the employee's superior and Department Head and the endorsement of the Town Manager, an employee will receive a pay adjustment equal to one Pay Step in recognition thereof. Should said employee already be at the top Pay Step for the position held, the equivalent of a one step pay increase may still be awarded, with the employee's pay thereafter administered as a Personal Rate as described within these Personnel Policies. (Paragraph f. above).

m. All pay adjustments provided for in this section shall be subject to the availability of funds.

o. Expense Reimbursement

n. Longevity

Full-time employees shall receive a lump-sum payment, separate and apart from base pay, based upon their years of service for the Town of Chatham. The Longevity Payments shall be made on the payroll immediately following the employee's anniversary date of hire as follows:

Upon completion of 6 years of experience		\$250
upon completion of 7 years of experience	\$50	\$300
Upon completion of 8 years of experience	\$50	\$350
Upon completion of 9 years of experience	\$75	\$425
upon completion of 10 years of experience	\$75	\$500
upon completion of 11 years of experience	\$100	\$600
Upon completion of 12 years of experience	\$100	\$700
Upon completion of 13 years of experience	\$100	\$800
upon completion of 14 years of experience	\$100	\$900
Upon completion of 15 years of experience	\$100	\$1,000
Upon completion of 16 years of experience	\$100	\$1,100
upon completion of 17 years of experience	\$100	\$1,200
Upon completion of 18 years of experience	\$100	\$1,300
Upon completion of 19 years of experience	\$100	\$1,400
Upon completion of 20 years of experience	\$100	\$1,500
Upon completion of 21 years of experience	\$100	\$1,600
Upon completion of 22 years of experience	\$100	\$1,700
Upon completion of 23 years of experience	\$100	\$1,800
Upon completion of 24 years of experience	\$100	\$1,900
Upon completion of 25 years of experience	\$100	\$2,000

Employees shall be paid a mileage allowance for the authorized use of a personal motor vehicle on Town business at the rate prescribed by the office of the Town Manager or the Internal Revenue Service, whichever is greater.

**SECTION 8 - AUTHORITY FOR AMENDING PERSONNEL POLICIES**

a. The Personnel Policies, Classification Plan and/or the Compensation Plan may be amended by the Town Manager and subject to annual approval by the Board of Selectmen. The Town Manager shall hold a hearing annually for all employees at least two weeks prior to submitting the Personnel Policies, Classification Plan and Compensation Plan to the Board of Selectmen.

b. In the case of urgent necessity or reorganization, the Town Manager may, on an interim basis, add a new classification and the salary or wage thereof to the Classification and Compensation Plan and file such

amendment with the Board of Selectmen and Personnel Advisory Committee. Said change shall be incorporated into the amended plan annually approved by the Board of Selectmen under Section 8 - a. above.

**SECTION 9 WORK WEEK/WORK HOURS**

a. The following table defines the normal full-time work week for each occupational group. The figures stand for hours per week, unless otherwise noted:

<u>OCCUPATIONAL GROUP</u>	<u>WORK WEEK</u>
Managerial	40 Hours
Administrative, Professional & Supervisory	40 Hours
Clerical	35 Hours
Labor & Maintenance	40 Hours
Seasonal	40 Hours
Miscellaneous	AS Defined

**SECTION 10 - OTHER COMPENSATION**

a. Managerial Group: an employee occupying a position classified in this group is not entitled to overtime compensation or compensatory leave. Persons in this work group shall receive an additional five days of compensatory time or compensation to be earned at the rate of one-half day per month not to exceed five days in a twelve-month period. Any unused portion of the compensatory time may be converted at the end of the 12-month period to a lump sum commensurate with the employee's daily equivalent of pay as of June 30th.

b. Administrative, Professional or Supervisory Group: an employee occupying a position classified in this group is not entitled to overtime compensation. For time worked outside the employee's normal hours of work, he or she is entitled to take the amount of equal compensatory time off as approved by the employee's Department Head.

c. Labor & Maintenance Group: an employee in this group shall be compensated at one and one-half times his or her regular hourly rate for hours worked in excess of 40 hours in a payroll week but only when said overtime is authorized by the appropriate Department Head.

d. Clerical Group: an employee in this group shall be compensated at the straight time hourly rate for his or her position which corresponds to his or her Pay Step Rate for hours worked in excess of 35 hours per week,

but less than forty only when said overtime is authorized by the proper authority. Authorized overtime hours in excess of 40 in the same Work Week shall be paid at one and one-half times the employee's equivalent Hourly Rate.

e. Part-time employees in all groups shall be compensated at their hourly rate for up to 40 hours in a Payroll Week and except employees in the Managerial Group and employees in the Administrative, Professional and Supervisory Group, when authorized to work in excess of 40 hours shall be paid at time and one-half their hourly rate for said hours worked.

f. Employees paid under the Miscellaneous work group shall not be entitled to overtime compensation as described in this section.

g. An eligible employee who has completed his or her normal work day and who is thereafter recalled by the supervisor on the same work day shall receive a minimum of two hours pay for such authorized call back. Only the time actually worked during such call back shall be counted for overtime computation purposes.

#### SECTION 11 - PERFORMANCE APPRAISAL

To enhance communication, build greater understanding in employee/supervisor relations, and work toward advancement of individual development, a program to conduct annual reviews of each employee's performance shall be in place and occur at least one time during each fiscal year. The appraisal shall focus on but not be limited to,

a. the employee's success or lack of in achieving agreed-upon objectives,

b. developmental plans for performance improvement,

c. mutual understanding of programs to achieve the employee's growth goals and career aspirations, and

d. decisions on complimentary~ programs of on-the-job and off-the-job training and development. Employees shall be given a copy of said review and an opportunity to comment in writing regarding the review. Employee's comments shall also be filed in his or her personnel record.

A copy of a written appraisal shall be prepared relative to each appraisal discussion, be made available to the employee, and become part of the employee's official personnel record.

Appraisal discussions shall be conducted by the employee's immediate supervisor. Disagreements in reaching consensus between the employee and superior shall be taken to the next highest Administrative Authority for resolution.

#### SECTION 12 - SPECIAL ACHIEVEMENT AWARD

Recognizing the value of an employee who extends himself or herself to improve job performance, productivity, and/or the image of Chatham in a way that is noticed by co-workers, the community, or visitors to the Town, an Employee-of-the-Quarter shall be selected to receive a Special Achievement Award under the following criteria:

1. The employee must be nominated in writing by a superior or a co-worker. Nominations must be received no later than the 5th day of the month following the end of the quarter for nominees for the preceding quarter;
2. The Employee-of-the-Quarter shall be selected by the 15th of the month from among the nominees by the Awards Committee. The committee shall be comprised each year by a member chosen by employees covered by these Personnel Policies, a member of the Personnel Advisory Committee (rotating assignment) and the Town Manager, or his/her designee.
3. Criteria for award selection shall include, but not be limited to, an act or actions that:
  - a. reflect creativity in job performance.
  - b. reflect cost savings to the Town,
  - c. impact positively the safety, health and/or security of others, on or off the job, or
  - d. enhance the positive image of the work force of the Town of Chatham.
4. Each quarter recipient will receive a cash award of \$100.00, suitable recognition in the local media and listing of his/her name on an Employee-of-the-Quarter Honor Roll mounted in the Town Offices.

#### SECTION 13 PAID HOLIDAYS

- a. The following days shall be recognized as legal holidays within

the meaning of these Personnel Policies on the day designated to be observed by statute of the Commonwealth of Massachusetts:

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

and any other holiday or part thereof given off with pay to any other group of Town employees. On such days employees shall be excused from all duty which is not required to maintain essential Town Services.

b. Every employee in full-time or continuous regular part-time employment shall be entitled to these designated holidays on the following terms:

1. Holiday hours equal to the employee's normal work hours per day are to be considered as hours worked.
2. If paid on an hourly basis, he or she shall receive one day's pay at his/her regular rate based on the number of hours which would have been regularly worked on the day on which the designated holiday fell.

c. Payment under the provisions of this section only shall be made provided the eligible employee shall have worked on his/her last regularly scheduled working day prior to, and his/her next regularly scheduled working day following each holiday, or was in full pay status on each preceding and following day.

d. An employee in continuous employment who is required to work on a holiday shall be paid at his or her regular rate for such day or fraction thereof in addition to the amount to which he/she is entitled.

e. When a holiday falls on a non-working day of an employee in full-time employment who, because of a rotation of shifts, works different days in successive weeks, that employee shall be given an additional day off during that week when departmental scheduling allows. However, if the employee is required to work on that day, he/she shall be paid at his/her regular rate for such day or fraction thereof in addition to the amount to which he/she is entitled. Whenever one of these designated holidays fall on a Saturday or a Sunday, those employees eligible to receive holiday pay shall be excused on Friday in the case of a Saturday holiday or on Monday in the case of a Sunday holiday.

f. When a holiday falls on an eligible employee's vacation time, he/she shall be given an additional day of vacation.

#### SECTION 14 - VACATION

The following shall govern paid vacation leave for employees in continuous service with the Town. Permanent part-time employees shall receive vacation pay on a proportionate basis. Seasonal employees shall not receive paid vacations. Employees on the Miscellaneous Schedules F and F-1 where designated shall receive vacation on a proportionate basis.

a. Full-time or permanent part-time employees in continuous employment shall earn one day of vacation leave per month not to exceed 10 working days in their first year of employment. For the purposes of computation, anyone hired from the first through the tenth of the month shall receive credit for a full month of service. Years of continuous service for purposes of vacation eligibility after one year of service shall be based upon the employee's anniversary date of hire in each of the following years. Vacation leave may not be taken during the first six months of employment without express approval of the Town Manager. If an employee leaves before completing a year of service, vacation leave will be computed on the basis of one day for every five weeks worked.

b. During the second through the fifth year of continuous employment, employees shall earn one day of vacation leave per month not to exceed 10 working days. If an employee leaves in the second through the fifth year of employment, vacation leave will be computed on the basis of one day for every five weeks worked.

c. During the sixth through the tenth year of continuous employment, employees shall earn one and one-quarter days of vacation leave per month not to exceed 15 working days. If an employee leaves in the sixth through the tenth year of employment, vacation leave will be computed on the basis of one and one-half days for every five weeks worked.

d. Beginning the 11th year of continuous employment, employees shall earn one and three quarters days of vacation leave per month not to exceed 20 working days. If an employee leaves after the 11th year of employment, vacation leave will be computed on the basis of two days for every five weeks worked.

e. A week is defined as five work days. Vacation pay is the weekly rate in effect at the time the vacation is granted.

f. Vacation leave may be taken at any time during the fiscal year, subject to the limitations set forth in the preceding paragraphs, with the approval of the employee's Department Head.

g. Vacation leave may be accumulated up to 10 days beyond an employee's vacation allowance. (e.g., a seven-year employee may accumulate a maximum of 25 days.) Vacation leave may be carried over from one fiscal year to the next up to 10 days beyond an employee's vacation allowance. (e.g., a seven year employee may carry over a maximum of 25 days.

h. Upon termination of employment, other than discharge for cause, the employee shall be paid for current accrued leave including the month in which the employment is terminated.

i. Upon the death of an employee who is eligible for vacation, payment entitlement for vacation earned but not taken shall be made to the estate of the deceased.

j. Absences on account of sickness in excess of that authorized under the rules therefore or for personal reasons may at the discretion of the Department Head, if requested in writing, be charged to vacation leave.

#### SECTION 15 - LEAVE OF ABSENCE

Under special circumstances, as described, employees shall be entitled to time off from work with pay. Such hours paid shall not count as hours worked for calculation of weekly overtime pay.

#### SECTION 15A - SICK LEAVE

The following shall govern sick leave for full-time employees in continuous service with the Town. Regular part-time employees shall receive sick pay on a proportionate basis. Seasonal, and part-time employees working less than 20 hours shall not receive sick pay. Employees on the Miscellaneous schedule, where designated, shall receive sick pay on an appropriate basis.

a. An employee in continuous employment shall be allowed 15 days leave within each fiscal year, or one and one-quarter days for each month, provided such leave is necessitated by sickness or injury.

b. An employee in continuous employment shall be credited with the unused portion of leave granted under subsection a. up to a maximum of 165 days.

c. Paid sick leave must have been earned and be authorized by the Department Head. If required by the Department Head, a physician's certificate of illness shall be submitted by the employee after three days of absence before leave can be granted. Furthermore, it is mandatory that a physician's certificate of illness be provided by the employee after the seventh day of a continuous sickness.

d. The Town Manager and/or the Department Head may, of their own motion, require a medical examination of an employee who reports his inability to report for duty because of illness. This examination shall be at the expense of the Town by a physician appointed by the Town Manager.

e. When necessary, sick leave may be used by an employee to take care of an ill member of the Immediate Household, subject to the same provisions as in Section 15A.c.

f. Payments made under the provisions of this section to an employee who is receiving Workmen's Compensation payments shall be limited to the difference between the amount paid in Workmen's Compensation and the employee's regular rate. These payments, which are to be made by the Town, shall continue for not more than six months unless extended beyond that period by the Town Manager.

g. Upon death, retirement, or voluntary resignation, payment shall be made of 25 percent of accumulated sick leave. Additionally, the retiring or resigning employee shall be allowed to donate to the sick leave bank 25 percent of his remaining sick leave.

h. Employees who have reached the maximum of one hundred sixty-five (165) days accumulation and who have not used any sick leave during a six-month period ending either December 31 or June 30 shall be entitled to convert one day's sick leave (1/10 of the employee's bi-weekly pay) to a sum commensurate with the employee's regular rate of pay.

#### SECTION 15B -SICK LEAVE BANK

a. Employees may choose by written request to contribute two of their personal sick leave days on June 30 or January 1 into a sick leave bank to be administered by a Sick Leave Bank Committee consisting of two employees, one being a Department Head and both to be elected by the employees, and the Town Manager.

b. An employee who has exhausted all of his/her accumulated sick leave and who has completed the probationary period, can make written application to the Committee for the use of bank days in case of serious long-term illness. However, employees who have not joined the Sick Leave Bank (as above) shall not be eligible to draw from the bank.

c. A majority vote of the Committee shall be necessary for the granting of sick leave bank days, and in making its decision the Committee shall review the employee's length of service, prior sick leave records, and facts surrounding the instant request. A maximum of 30 days can be awarded by the Committee without further review.

d. If the decision of the Sick Leave Bank Committee is not favorable, it may be appealed to the Personnel Advisory Committee of the Town for review, and the decision of the Personnel Advisory Committee shall be final and binding and not subject to further review.

#### 15C - BEREAVEMENT LEAVE

In the event of a death of the full-time employee's spouse or child, the employee will be paid up to a maximum of five consecutive work days at his/her regular rate of pay to attend the wake and funeral. Three consecutive work days may be paid in the event of the death of a mother, father, mother-in-law, father-in-law, grandparent, brother, sister, brother-in-law, sister-in-law or grandchild. One work day may be paid to attend the funeral of another relative residing in the employee's immediate household.

Regular part-time employees may receive Bereavement Leave on a basis proportional to the number of regularly scheduled hours of work.

Part-time employees, seasonal employees, or employees paid under the Miscellaneous Schedule are not entitled to receive Bereavement Leave with pay.

#### 15D - FAMILY MEDICAL LEAVE POLICY

a. It is the policy of the Town to provide leave in accordance with the Family and Medical Leave Act of 1993 (FLMA). Said policy and procedures relative to said Act are attached to these policies as Attachment A.

15E - MILITARY LEAVE

Members of the military reserves on brief tours of military training duty may be compensated by the Town for the difference between the employee's regular pay and that received from the Government for said absence for up to two (2) weeks in a fiscal year. Such tours of duty shall not be counted against vacation allowance. Employees in reserve units or members of the National Guard called up for extended or open-ended periods of time shall not be covered by the policy provision.

15F - PERSONAL LEAVE

A full-time employee in continuous service shall be eligible to receive two (2) Personal Days with pay per each fiscal year. One (1) Personal Day shall be granted regular part-time employees. A Personal Day may be taken only with the approval of the employee's Department Head and shall not be taken in conjunction with paid vacation days. Personal Days are non-accumulative.

15G JURY DUTY

If a full-time or regular part-time employee is selected for jury duty, either for the Commonwealth or the Federal Judiciary, such employee shall be reimbursed the difference in pay between what payment the said employee received, either from the County, State, or Federal Judiciary, and his or her regular straight-time wages, providing:

- a. Such payment shall apply only to those days the employee would actually have been scheduled to work;
- b. The employee selected for jury duty shall notify his/her supervisor immediately upon being selected, and
- c. The employee reports to work for the Town whenever he or she is not required to sit on the jury during a full jury duty day, or in the event a sitting-in is cancelled for a certain day.

15H - LEAVE OF ABSENCE WITHOUT PAY

Leave without pay to enable an employee to resolve a pressing personal situation may be granted with the approval of the Department Head and the Town Manager. During a Leave of Absence Without Pay, an employee shall not accumulate vacation leave, sick leave, or longevity credits.

SECTION 16 -DISABILITY PAYMENTS AND DISABILITY RETIREMENT OF CALL FIRE FIGHTERS AND RESERVE POLICE OFFICERS

The Town of Chatham Selectmen shall retire from active service any call fire fighter or reserve, special or intermittent police officer (herein referred to as "call/reserve person") who becomes permanently disabled, mentally or physically, by injuries or incapacity sustained through no fault of his/her own in the actual performance of duty as a call/reserve person.

a. Board of Physicians Authorization: The Board of Selectmen shall grant such retirement from active service after a determination of permanent disability as a result of duty as a call/reserve person has been made by a Board of Physicians. This Board, funded by the Town, is to be comprised as follows: one physician to be chosen by the Town of Chatham, one physician to be chosen by the call/reserve person and one physician to be mutually agreed upon by the two parties. The Board of Physicians shall determine the call/reserve person's ability to perform the usual duties of his/her regular occupation at the time such injury or incapacity was incurred.

b. Retirement Compensation: A person so retired shall receive an annual pension equal to two-thirds of the annual rate of compensation payable to a regular or permanent member of the fire or police force, for the first year of service therein.

c. Disability Compensation: Whenever a call/reserve person is disabled because of injury or incapacity sustained in the performance of his/her duty without fault of his/her own, and is thereby unable to perform the usual duties of his/her regular occupation at the time such injury or incapacity was incurred, he/she shall receive from the Town of Chatham, for the period of such injury or incapacity, 100% of the amount of compensation payable to a permanent member of the fire or police force, as the case may be, for the first year of service therein.

d. Board of Physicians Review: No such disability/retirement compensation shall be payable for any period after a call/reserve person has been retired or pensioned from either force in accordance with law or for any period after a Board of Physicians, funded by the Town, one physician to be chosen by the call/reserve person and one physician to be mutually agreed upon by the two parties, determines that such injury or incapacity no longer exists.

e. Payment Schedule: All amounts payable under this by-law shall be paid at the same time in the same manner (but at least monthly) as, and for all purposes shall be deemed to be, the regular compensation of the call/reserve person.

The Town shall not pay compensation under these Personnel Policies if insurance providing coverage for such compensation is in effect under Clause (1) of Section 5 of Chapter 40 of the Massachusetts General Laws unless and until all rights under such insurance in favor of such town shall have been exercised, determined and settled.

#### SECTION 17 - EDUCATIONAL ASSISTANCE

Permanent employees of the Town may be entitled when approved in writing in advance, to reimbursement for authorized costs incurred for education training which enhances an employee's credentials and ability to perform his/her work.

1. Application for reimbursable course work should be made through the employee's immediate superior prior to taking the course (s) of study, and are subject to the approval of the Town Manager, the Personnel Advisory Committee, and budgeted appropriations.

2. Approved courses shall be taken at Massachusetts State or Community colleges, or other similarly accredited institutions.

3. Evidence of a minimum course grade of "C" or its equivalent, must be attained to qualify for reimbursement.

4. Reimbursement shall be at the rate of 100% of the expended and documented costs for course-related fees, books, and tuition but excluding travel related costs.

5. Courses of study reimbursable under this program shall be conducted outside the employee's scheduled hours of work.

#### SECTION 18 - STANDARDS OF CONDUCT

a. Conflict of Interest -All persons holding positions with the Town of Chatham, be they full-time, part-time, or seasonal employees, or volunteer and/or appointed members of Boards, Committees, Commissions, or other authorities, shall, at all times represent themselves with respect to the public, governmental authorities, and among themselves in such a way as to not discredit the Town of Chatham and/or each other. All employees are to comply with Massachusetts General Law, Chapter 268A (The Conflict of Interest Law). Among the standards by which employee's behavior may be judged, but not limited to, are issues concerning:

b. Harassment - The Town of Chatham shall not condone any form of physical or sexual harassment, or other form of conduct that, by its intent, shall create a hostile, intimidating or otherwise offensive work environment.

Manifestations may include, but not be limited to, threats to job security or physical well-being expressed openly or implied; written or visual material of prurient interest; unwelcome sexual advances or requests for sexual favors; acts deemed to be threatening due to the employee's gender, race, color, creed or national origin.

c. Smoking Restrictions - Town buildings are 'No Smoking' areas. It shall be expected that all employees and all other users of controlled facilities restrict smoking to external or designated areas.

d. Safe Work Practice . It is expected that all employees shall conduct their work in accordance with the safe practices and procedures and utilizing the safety equipment as prescribed for their respective positions.

Adverse conduct, experienced or observed, with respect to these standards shall be reported to the Department Head or Town Manager who shall initiate an investigation of the reported conduct and either initiate disciplinary action, if warranted, or shall take no action if appropriate in which case the parties involved shall be so advised.

#### **SECTION 19 - EMERGENCY CLOSING OR WORK RE-ASSIGNMENT**

Recognizing that inclement weather or other extraordinary conditions might justify the official closing of Town facilities or disrupt the normal work schedules of employees, the following such emergency procedures shall apply:

1. An official closing shall be determined by the Town Manager in consultation with the Board of Selectmen, and a communication network shall be in place to insure that all affected employees are notified on a timely basis,

2. Employees whose work is deemed essential shall report to their regular places of work and perform the duties assigned,

3. Work deemed essential and not normally scheduled to be performed, or work stations wherein staffing would be in short supply (e.g., an Emergency Operation Center) may be re-assigned to employees who would otherwise not work due to the closing of the employee's regular employment facility. Any such work arrangements shall be made by the Town Manager in conjunction with relevant Department Heads, Pay for such re-assigned work shall be at the employee's normal rate of pay.

4. Employees who would normally be scheduled but do not work during a period of official closing shall be considered to be on Personal Leave, may work equivalent extra hours outside their normal work schedule during the next four payroll weeks, or may use entitled vacation time to make up the time not worked. Hours worked outside the employee's normal work schedule to meet the requirements of this policy shall be compensated at the employee's normal straight-time pay rate.

5. Employees who qualify for overtime compensation and who do work during an official closing shall be compensated at their regular rate of pay for up to forty hours worked in a payroll week, plus any relevant overtime beyond forty hours which shall be paid at one and one-half times the normal rate of pay.

6. Employees who do not qualify for overtime pay and who work substantial hours beyond those of their normal average workweek due to an emergency situation may receive an equitable compensation or compensatory leave award, or combination thereof as determined, in each circumstance, by the Town Manager.

#### SECTION 20 - REDUCTION IN FORCE

To assure the fair and equitable treatment of Town employees in the event it is necessary to reduce the Town's work force, the Administrative Regulations developed by the Town Manager outside the scope of these policies, shall be followed by the Town Manager after consultation with Department Heads, the Personnel Advisory Committee and the Board of Selectmen.

#### SECTION 21 - PERSONNEL RECORDS

The Town Manager shall be responsible for maintaining a centralized record keeping system to include a personnel file for each employee of the Town covered by these Personnel Policies.

##### Contents

Each personnel file shall contain, but not be limited to, the following data: employment application or resume; any documented reference check or investigative information; physical examination records as they relate to the job requirements to be met by the employee; reports of any personnel actions related to the employee such as the original appointment, promotions, demotions, reassignments, transfers, compensation, and position classifications, commendations and/or disciplinary actions.

##### Confidentiality

Personnel records shall be considered to be confidential documents with access limited to the Department Head, Town Manager, and the employee.

Any employee, upon request to review his/her personnel record, may do so, at any mutually convenient time, in the presence of the Town Manager, or his designee.

#### Duplicate Files

This procedure does not prohibit a Department Head from maintaining confidential files of his/her employees under guidelines issued by the Town Manager.

#### Compensation Data

The Treasurer's office shall maintain and keep current the official wage and salary status of each employee, including base pay, overtime and other extra compensation, sick leave, vacation leave, personal leave and each employee's benefit plan participation.

### SECTION 22 - GRIEVANCE PROCEDURE

An employee covered by these Personnel Policies, at any level who feels aggrieved due to the interpretation of these policies as it affects him/her shall have recourse, without prejudice or retribution, to seek a response to the alleged situation, condition, problem or misunderstanding in the following manner:

Step 1: The aggrieved employee shall present the issue informally through discussion with the employee's immediate supervisor and may expect a reply in answer to the grievance within a maximum of ten (10) working days of the initial conversation.

Step 2: If the supervisor's response is not deemed acceptable, or not received within the ten (10) working-day time frame, the aggrieved may refer the grievance to his or her Department Head within five (5) additional working days. Such referral shall be in writing, documenting the time and/or dates of the circumstances and reasons of said grievance and the actions toward resolution that had transpired to that date. The aggrieved may expect a reply in answer to the grievance within fifteen (15) working days from the date of its filing with the Department Head.

Step 3: If the Department Head's response is not deemed acceptable, or not received within the fifteen (15) day time-frame, the aggrieved may refer the grievance to the Town Manager within an additional five (5) working days, such submission to include copies of the written documentation of said grievance, with note sequence of the actions or inactions taken to that date. The aggrieved may expect a reply in answer to the grievance within twenty (20) working days of its filing with the Town Manager.

Step 4: Should the aggrieved not be satisfied with the response from the Town Manager, or not have received a timely reply in accordance with these guidelines, the aggrieved may take the grievance to a neutral third party to be mutually agreed upon by the Town Manager and the employee. If there is a filing fee charge for arbitration, the Town shall pay such filing fee. The decision rendered by the neutral third party shall be final.

It is expected that any decision rendered at any stage in this process shall be based on the interpretation of the provisions of these policies. A decision by a neutral third party must be limited to the scope of these Personnel Policies and shall not extend to employees other than the employee who has filed said grievance.

**SECTION 23 - SUSPENSION, DEMOTION, RESIGNATION OR OTHER TERMINATION OF EMPLOYMENT**

a. A permanent employee may be suspended or demoted by a Department Head or recommended by a Department Head for discharge by the Appointing Authority. An employee subject to such suspension or demotion action taken by a Department Head shall have the right to appeal such action to the Town Manager. All such actions are appealable through the Grievance Procedure set forth above.

b. A Department Head who chooses to resign voluntarily from employment with the Town shall submit written notice of said resignation to his or her Appointing Authority with as much notification as possible, but not less than four weeks. The Town Manager may decide whether the departing employee may leave before the expiration of the four week notice period, and/or may use vacation pay entitlement as a means for earlier departure.

c. An employee below the level of Department head who chooses to resign voluntarily from employment by the Town shall submit written notice of said resignation to his or her immediate superior with as much advance notification as possible, but not less than two weeks. The Town Manager may decide whether the departing employee may leave before the expiration of the two week notice period, and/or may use vacation pay entitlement as a means for earlier departure.

d. Employee's sick leave and vacation leave provisions may not be paid if employee fails to give adequate notice of resignation.

**SECTION 24 - FAIR LABOR STANDARDS ACT**

The Fair Labor Standards Act for Municipal Employees delineates the criteria by which employees shall or shall not be covered under the Act, and the criteria for qualifying for overtime pay. The following Schedules of the Town's Compensation Plan distinguish those positions which meet Executive, Professional and Administrative exemption from the overtime requirements of the Act (Exempt) and those positions covered by the overtime provisions of the Act (Non-Exempt).

## SECTION 26 - PHYSICAL EXAMINATION

Before appointment to a position in the Classification Plan requiring continuous service, a candidate shall have passed a physical examination satisfactory to the Town. The examining physician shall be appointed by the Town Manager and the examination shall be at the expense of the Town. The examining physician shall advise the Town as to whether, in his/her opinion, the applicant is physically qualified to perform the duties of the position for which application has been made. The examining physician's report shall be confidential and a copy of same shall be maintained in the employee's file.

## SECTION 27 .HIRING PROCEDURE

a. The Department Head shall inform the Town Manager that the position is open. If a new position, a job description is developed and submitted to the Town Manager for classification. Applicants are to be hired at Step 1 of the appropriate grade unless approval for a higher step is approved by the Appointing Authority.

b. The Town Manager or his designee shall post the job description, showing duties and qualifications, pay, and notice of intent to hire on all bulletin boards of the Town work places. This notice of vacancy shall remain posted during the recruitment period (minimum of seven (7) working days.) The position is advertised in appropriate papers. Employees interested shall apply in writing within the recruitment period. If the position has been abolished due to restructuring of Town government, the person whose job has been eliminated shall be given first preference in filling the new position before applications are sought from outside.

c. Whenever possible, it shall be the policy of the Town to promote qualified persons, based on job performance and other factors, including seniority, to fill vacancies. Employees holding part-time and full-time positions, who are qualified and have applied, will be considered and interviewed.

d. The Department arranges for applicants to be interviewed. The Department Head contacts references either by letter, by telephone, or, if close by, in person. Applicants to be interviewed complete the Town application form and release of information form, if applicable.

e. The Department Head shall discuss applicants with the Town Manager.

f. After careful consideration of all applicants, the Department Head determines the individual to be selected and make a written recommendation to the Appointing Authority.

g. The Town manager or his designee refers the applicant for a permanent full-time or part-time position to the Town physician for a pre-employment physical. Pre-employment physicals for seasonal applicants are optional. The Town physician notifies the Town as to the results of the physical.

h. The Town Manager or his designee, will advise the Town Clerk who will swear in the person to the position, if required, and the Treasurer's Office who will place the individual on the payroll warrant and secure W-4 and 1-9 forms, and/or others as needed.

i. The Department notifies applicants not hired.

ATTACHMENT A  
FAMILY MEDICAL LEAVE POLICY

All eligible employees are entitled to take up to 12 work weeks of FMLA (Family Medical Leave Act) during a twelve month period under the following definitions and procedures.

Eligible Employees: Individuals who have worked for the Town for at least twelve months and provided at least 1,250 hours of service during the twelve months before the leave commences.

Eligible employees are entitled to FMLA leave for:

- 1) The birth of a child and to care for the child or the adoption or placement for foster care of a child under 18 years of age (or over 18 years of age if the child has a physical or mental disability and is unable to care for him/herself).
- 2) A serious health condition which prevents the employee from performing the functions of his/her job.
- 3) To care for a child, parent, or spouse who has a serious health condition.

Definitions:

Child: Biological, adopted or foster children, stepchildren, or the child of a person with legal guardianship or who has day-to-day responsibility to care for and financially support a child, even if there is no biological or legal relationship.

Concurrent Leave: State and Federal mandated leave entitlements normally run concurrently with each other and will leave provisions under any applicable collective bargaining agreement or policy.

Health Care Provider: A doctor of medicine or osteopathy authorized to practice medicine or surgery by the State in which the doctor practices; a clinical social worker or a Christian Science practitioner or any other person determined by the Secretary of Labor, to be capable of providing health care services as defined under FMLA regulations.

Intermittent Leave: Time away from the job taken in separate blocks of time due to a serious health condition.

Parent: The biological parent or persons who have day—to—day responsibility to care for and financially support a child. Parents—in—law are not included.

Reduced Leave Schedule: Reduction in the number of hours per work day or work week.

Serious Health Condition: An illness, injury, impairment or physical or mental condition that involves:

- 1) Treatment as an inpatient in a hospital, hospice or residential medical care facility, or
- 2) A health condition that requires continuing treatment by or under the supervision of a health care provider. Continuing treatment includes:
  - a) two or more treatments by a health care provider;
  - b) two or more treatments by a health care practitioner on referral from or under the direction of a health care provider;
  - c) a single visit to a healthcare provider that results in a regimen of continuing treatment under the supervision of a health care provider.
- 3) A health condition that requires continuing treatment by or under the supervision of a health care provider for a chronic or long term health condition that is incurable or so serious that if untreated would likely result in an absence from work of more than three days.

Examples of serious health conditions include: heart attacks, heart conditions requiring heart bypass or valve operations, most cancers, back conditions requiring extensive therapy or surgical procedures, strokes, severe respiratory conditions, spinal injuries, appendicitis, pneumonia, diabetes, epilepsy, asthma, alcoholism, emphysema, severe nervous disorders, injuries caused by serious accidents on or off the job, the need for prenatal care, childbirth and recovery from childbirth.

Twelve Month Period: The "rolling" twelve month period measured backward from the date any employee uses any FMLA leave.

Spouse: Defined in accordance with applicable State law, including common law marriages as recognized by the Commonwealth of Massachusetts. Unmarried domestic partners do not qualify for FMLA leave to care for their partner.

Also, married couples that work for the Town are limited to a combined total of 12 work weeks during the twelve month period if leave is taken for birth or placement for adoption or foster care of a child or to care for a sick parent. Such leave to care for birth or placement for adoption or foster care of a child must be taken with 12 months beginning on the date of birth or placement for adoption or foster care.

#### Procedure

Notice of Intent To use Leave: Eligible employees will provide written notice of their intent to use FMLA leave to the Town Manager, thirty days in advance when the leave is foreseeable. For example, the birth or placement of a child for adoption or foster care, or planned medical treatment. When unforeseen events occur that require FMLA leave, the employees or a representative of the employee must provide written notice as soon as both possible and practical, but in no event later than one or two working days of learning the need for the leave except in extraordinary circumstances. The notice will include the reason for the leave, the date the leave shall begin and the intended date of return.

When planning medical treatments, employees should consult with the Town when giving notice and make reasonable efforts to schedule the leave so as not to unduly disrupt the Town's operations.

Medical Certification: Leave to care for an employee's seriously ill family member or leave due to a serious health condition that makes the employee unable to perform the functions of the employee's job, must be supported by certification by a health care provider. Employees must provide the certification within 15 calendar days. If the need for leave was not unforeseeable, the employee must still provide the certification as soon as both possible and practicable thereafter. Certification shall include:

- 1) Identification of the practitioner and the type of medical practice.
- 2) The date the serious health condition commenced and the probable duration of the condition.
- 3) Diagnosis of the serious health condition.

- 4) Statement of the regimen of treatment prescribed for the condition (including estimated number of visits, nature, frequency, and duration of treatment, including: referred or ordered treatment to other health care providers and whether inpatient hospitalization is required). For intermittent leave or leave on a reduced leave schedule, a statement of medical necessity of such leave.
- 5) In instances of the employee's serious health condition:
  - a) Statement that the employee is unable to perform work of any kind, or
  - b) Statement that employee is unable to perform the essential functions of his/her position (as determined by the Town).
- 6) Instances of care for a family member:
  - a) Statement that the family member is in need of the employee's assistance for basic medical, hygiene, nutritional needs, safety or transportation, or
  - b) Statement that the employee's presence would be beneficial or desirable for the care of the family member.

Medical certification forms are available in the office of the Town Manager. If the Town has reason to doubt the validity of a medical certification, the employee may be required to obtain a second opinion from a health care provider designated by the Town at the Town's expense. If the two opinions differ, the Town may require a third opinion, which will be final and binding, from a health care provider mutually agreed upon by the employee and the Town and at the Town's expense.

Recertification by the health care provider is required every 30 days. Recertification must include the same information contained in the initial certification.

Recertification may also be required in the following instances:

- a) The employee requests an extension of leave;
- b) Changed circumstances occur regarding the illness or injury;

- c) The Town's reception of information which casts doubts upon the continuing validity of the certification.

Notice of Intent To Return To Work: An employee will be required to report periodically to the Town on his or her status and intent to return to work.

Intermittent Leave/Reduced Schedule: FMLA leave may be taken on an intermittent or reduced leave schedule. Employees requesting an intermittent or reduced leave schedule must make a reasonable effort to schedule treatment so as not to unduly disrupt the Town's operations and administration, especially when the leave is foreseeable. The Town may require a temporary transfer to an alternative position with equivalent pay and benefits, if the employee is qualified for the position, to better accommodate re-occurring periods of leave.

Leave for the birth or placement of a child may not be taken on an intermittent or reduced leave schedule basis.

Paid Leave and Benefits: In all circumstances, accrued vacation and personal leave as well as compensatory time must be used for qualified FMLA leave. In addition, sick leave must also be used to care for the employee's own serious health condition. Upon depletion of the available accrued paid leave, FMLA leave becomes unpaid leave. It is the total of this time which will equal the 12 weeks of FMLA leave. During any portion of FMLA leave to which the accrued paid leave is applied, the employee will continue to accrue benefits and seniority. During any portion of FMLA leave which is unpaid, the employee will not accrue benefits and seniority.

The Town will continue the contribution to the employee's group health plan during the FMLA leave unless the employee advised that he or she will not be returning to work. The employee will have his or her contribution deducted from the applied paid leave. Upon the depletion of said leave, the employee must make arrangements to pay his or her contribution to the health premiums. These arrangements must be made in advance of the leave, especially if the leave is foreseeable.

If the employee's premium payment is more than 30 days late, his or her health coverage will be cancelled. Employees experiencing severe financial hardship may petition the Town Manager for consideration of alternatives for payment of the employee premium. This may include, but not be limited to,

payment or employee health insurance premiums by the Town while on unpaid leave and subsequent double deductions of health insurance premiums upon the employee's return to work. This petition must be made within the 30 days noted previously. The Town Manager will make a recommendation to the Board of Selectmen or their designee for final determination.

The Town will recover from the employee premiums paid during any period of unpaid FMLA leave if the employee fails to return to work after the FMLA leave entitlement has expired, except in instances of continuation, reoccurrence, or onset of qualifying FMLA leave circumstances or other circumstances beyond the control of the employee.

When circumstances allow for the Town to recover health insurance premium payments it made from a non-returning employee, the Town may deduct the amount due from any sums owed to the employee. For example, vacation or final paycheck.

Restoration to Position: An eligible employee who takes FMLA leave is entitled to be restored to the same position that the employee held when the leave started or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment provided the employee returns to work at the conclusion of leave of 12 work weeks or less.

Employees on FMLA leave due to their own serious health condition must submit certification from the health care provider that the employee is able to resume work, i.e., is fit for duty before they can return to work.

Denial: Conditions under which FMLA leave and/or reinstatement may be denied include, but not limited to:

- 1) Ineligibility of employee,
- 2) Unqualified for leave under the Family and Medical Leave Act,
- 3) Employee fails to give timely advance notice for foreseeable leave (temporary denial up to 30 days after employee provides notice of need),
- 4) Employee fails to provide in a timely manner requested medical certification (temporary denial up to time of submittal),
- 5) Employee fails to supply fitness-for-duty certificate (up to time of submittal),
- 6) If employee's job is eliminated during period of leave,

- 7) Employee unequivocally advises Town of intent not to return to work,
- 8) Fraudulent acquisition of FMLA leave, and
- 9) Employment with another employer while on FMLA leave.

All notifications, certifications and questions relating to this policy must be submitted to the Town Manager.

