



TOWN OF NEW DURHAM

PERSONNEL MANUAL

This document supersedes all personnel policies previously established or approved by the Town of New Durham.

Effective: January 2, 1992
Amended: 12/1994, 1/1995,
12/1996, 12/1998, 1/2001,
1/2002, 9/2003, 12/2004,
2008, 1/2012, 10/15/2013
12/16/2013

RECEIPT AND ACKNOWLEDGMENT OF NEW DURHAM’S PERSONNEL MANUAL

This Personnel Manual is an important document intended to help you become acquainted with New Durham. This Manual will serve as a guide; it is not the final word in all cases. Individual circumstances may call for individual attention.

Please read the following statements and sign below to indicate your receipt and acknowledgment of the Manual.

- I have received a copy and understand that it is my obligation to read the Personnel Manual. I understand that the policies described in the Manual are subject to change at the Town of New Durham’s sole discretion at any time. I understand that this Manual supersedes and replaces all other previous manuals and personnel policies for the Town of New Durham as of December 16, 2013.
- I acknowledge that I have the right to terminate my employment with the Town of New Durham at any time without notice unless otherwise specified by contract or memorandum of employment. In turn, I acknowledge that the Town of New Durham has the right to terminate my employment in its sole discretion, subject to any statutory, federal or state constitutional requirements, contract or memorandum of employment.
- I am aware that the descriptions of benefits in this Manual are not contractual in nature and do not guarantee any continuance of said benefits.
- I am aware that during the course of my employment, confidential information may be made available to me. I understand that this confidential information must not be given out or used outside of New Durham premises or with non-New Durham employees, except as required by law.
- I understand that my signature below indicates that I have read and understand the above statements and have received a copy of the Personnel Manual.

Employee’s Name (please print)

Signature

Date: _____

Department Head’s Name

Signature

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PERSONNEL MANUAL

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WELCOME TO NEW DURHAM

In 1772 the NH Colonial Assembly voted to cut a road from “Cocheco” (Dover) to “Winnipishoky (original spelling) Pond. It was started in May of 1772 and completed that summer. Called Bay Road, it was the first public way leading to Lake Winnepesaukee.

So that the pioneers could forge a government of their own a 1762 royal governor’s request was granted enacting a town charter. Approved by King George II and signed by Governor Benning Wentworth, New Durham’s original charter has been preserved and is stored at Town Hall.

As you travel down that ancient road today you will see New Durham’s 1772 Meeting House, the Farmington Fish and Game Club, the New Durham Elementary School, and New Durham Library. Although it was once called the “Temperance Hall” the former First Freewill Baptist Church now serves the non-profit New Durham Food Pantry. Across the street from the church one sees the New Durham Town Hall, which opened in 1908. Today this nucleus continues to serve as the center of town government, the Police and Fire Departments and several small businesses.

The Boodey House, the Ridge and Merrymeeting Lake are all names christened into our history as royal in depth as they are in scope. Berry, Bickford, Joy, and Tash are just a few of the names of some of New Durham’s early families, names that are still heard in town today.

Since New Durham was first settled, the mantle of farming and manufacturing (tokens of hard work) has been passed down generation to generation. Our forefathers were self-reliant. Today our Town Hall provides our residents with the services they alone could not provide.

We have a long history of loyal and hardworking residents. This is a trait seen every day in our employees. We are glad that you have joined us and we hope you will find your work to be both challenging and rewarding.

The New Durham Board of Selectmen
Theresa Jarvis, Chair
David Bickford, Vice Chair
Jeffrey Kratovil, Selectman

Historical Information from “The History of New Durham, New Hampshire” by Ellen Cloutman Jennings, published 1962

Effective January 2, 1992
Last amended December 16, 2013

Chapter 1: PURPOSE

It is the policy of the Town of New Durham that all employees are entitled to work in an environment where all laws, rules and regulations are codified. The purpose of this Personnel Manual is to establish the personnel policies, in order to ensure, insofar as possible, uniform treatment and administration of personnel employed by the Town of New Durham. The Personnel Manual not only outlines the policies towards the various phases of your employment, but it also indicates how policy is to be administered. The Town retains the right to make decisions involving employment, as needed, in order to conduct its work in a manner that is beneficial to the employees and the Town.

This Manual also summarizes the current benefit plans maintained by the Town of New Durham for eligible employees. If any questions arise regarding the implementation or interpretation of any benefit plan, the terms and conditions of the actual plan documents will supersede any of the summaries contained in this Manual.

The Town of New Durham is committed to providing equal opportunities for all persons making application for employment and for equity in treatment and advancement opportunities for our employees.

This Manual (and other plan documents) are not contractual in nature and do not guarantee any continuance of benefits. It is not the intent of this Manual nor should it be interpreted as being an offer or an enforceable obligation on the part of the Town. The text of these policies, or that of any procedure or statement of the Town, is not and should not be construed as either a contract of employment or as a contract guaranteeing continued employment. Employment with the Town of New Durham is at will and may be terminated by you or the Town at any time.

Pursuant to RSA 41:8 the overall responsibility for administration of this Manual rests with the Board of Selectmen or their representative. All Department Heads are responsible for administration of the Manual within their department.

This Manual supersedes any previous Personnel Plan or other written or verbal statement of policy, which many have been previously issued by the Town.

Chapter 2: AMENDMENT AND APPLICATION OF RULES

The adoption of this policy by the Board of Selectmen supersedes all previous personnel manuals, policies and or practices utilized by the Town of New Durham. The employer reserves the right to add to, delete from, or modify any of these policies either on an individual or organization-wide basis. Such additions, deletions, or modifications will be effective when approved by the Board of Selectmen. This manual is not intended to be and does not create contractual obligations for the Town of New Durham.

This Personnel Manual and all rules and regulations contained herein shall apply to all employees regardless of the type of employment or the number of hours worked, unless otherwise noted in this manual or a salaried employee's Memorandum of Agreement or Contract. These policies shall not apply to contractors, their employees, elected town officials when performing as a town official or to other bona-fide volunteers of the town. These policies shall be the minimum requirements for all employees, unless otherwise provided for by other contractual agreements.

The Board of Selectmen or their designee is responsible for the administration of these policies.

Chapter 3: DEFINITIONS

When used in this personnel manual the following words and terms have the meaning indicated below:

“Administrative Leave With Pay” shall mean a temporary leave from a job assignment, with pay and benefits intact.

“Administrative Leave Without Pay” shall mean a temporary leave from a job assignment without pay or benefits.

“Appointing or Hiring Authority” shall mean the Board of Selectmen, who shall be the final appointing and terminating authority for all positions within Town Government unless otherwise established by statute, ordinance, or legal vote of the legislative body (Town Meeting).

“Board of Selectmen (BOS)” shall mean the governing body of the Town of New Durham.

“Compensation” shall mean all salary, wages, fees, and other form of valuable consideration earned or paid to any employee by reason of service in the position, but does not include allowances for expenses authorized or incurred as incidentals of employment.

“Compensatory Time” shall mean time off in lieu of monetary overtime compensation, at a rate of one and one-half off for each hour of overtime worked.

“Demotion” shall mean a change of the employment status of an employee to a position having a lower salary rate.

“Employee” shall mean a person who has been appointed to a position in the Town within the guidelines of the Town of New Durham Personnel Manual, and shall include the individual elected to serve as Town Clerk for the duration of his or her term of office.

“Employee – Exempt” shall mean an individual that is paid on a salary basis and their duties and responsibilities allow them to be considered exempt from the overtime requirements of the Fair Labor Standards Act (“FLSA”).

“Employee - Full-Time” shall mean an individual that works a standard work week of forty (40) hours or more on a continuing or indefinite basis.

“Employee – Hourly” shall mean an individual that is compensated for labor or services rendered by the employee on a time basis.

“Employee – Non-Exempt” shall mean an individual that does not meet the requirements necessary to be considered exempt from the overtime provisions of the FLSA and who is eligible for overtime pay in accordance with the FLSA and New Durham policy.

“Employee - Part-Time” shall mean an individual that works less than the regular work week, but not more than 39 hours per week, on a continuing or indefinite basis.

“Employee – Salaried” shall mean any employee who under a contract, employment agreement or memorandum regularly receives each pay period a predetermined or fixed amount of money constituting compensation, based on a predetermined amount of wages to be paid as determined by a daily rate, weekly rate, bi-weekly rate, semi-monthly rate or monthly rate, and which amount is not subject to reduction because of variations in the quality or quantity of the work performed and regardless of the hours or days worked except as otherwise provided in RSA 275:43-b. (See RSA 275:42, VI)

“Employee – Seasonal” shall mean an individual that is hired for work that can only be performed during certain times of the year, does not maintain continuous regular employment with the Town and whose hours of work may vary due to weather and other factors, which could affect work schedules.

“Employee - Temporary” shall mean an individual that is hired to work for a defined, but limited, period of time when a special project, or emergency, or the filling of the position of an employee on a leave of absence or at long-term training requires the addition of employees for a specific time.

“Employment Examination” shall mean any test or examination of fitness to evaluate the ability of an applicant(s) to perform the essential functions of a position and may include, but not be limited to, oral board, written test, performance test, assessment center, background check, a pre-employment drug and alcohol test, physical and or psychological examination.

“Fiscal Year” shall mean from January 1st through December 31st.

“Health Care Practitioner” shall mean a Medical Doctor, Physician’s Assistant, Advanced Practice Registered Nurse, Doctor of Osteopathy, or Doctor of Naturopathic Medicine licensed to practice in the state of New Hampshire.

“Immediate Family” shall mean a spouse, civil union partner, children, step children or foster child of the employee, a person that the employee is the legal guardian of or where the employee or their spouse is a person standing “in loco parentis” of another, mother, father, grandparent or sibling of either the employee or the employee's spouse or relative living in the employee’s domicile or a person that the employee is otherwise in an intimate relationship with and residing in the same household as the employee.

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“Job description” shall mean the written description of the duties, responsibilities and minimum qualifications required by and substantially related to the position identified in the job description.

“Layoff” shall mean the involuntary separation of an employee resulting from a reduction in force due to lack of work, lack of funds or abolishment of the employee’s position.

“Labor Grade” shall mean a grouping of positions exhibiting comparable levels of duties, authority and responsibilities so as to warrant the same range of compensation.

“Leave” shall mean a period of authorized absence during which an employee does not work but is still considered to be in the employ of the Town.

“On-Call Time” shall mean that the employee is required to remain available to respond to a request for service.

“Overtime” shall mean authorized work performed in excess of 40 hours during a work week.

“Pay Day” shall mean every other Thursday unless that day is a legal holiday, when pay day shall mean Wednesday.

“Pay Period” shall mean biweekly.

“Personnel File” shall mean the official employee file which documents the individual’s employment with the Town of New Durham and which is maintained by the Board of Selectmen or their designee in the Board of Selectmen’s office at Town Hall and in accordance with RSA 275:56.

“Premises” or “Workplace” shall mean not only New Durham buildings, facilities and properties, but also any remote job site to which an employee may be assigned to work and any vehicle that they may be driving or traveling in for New Durham related business.

“Probationary Period” shall mean the initial employment period with the Town of New Durham, which shall be for a period of at least twelve (12) months.

“Promotion” shall mean the change of employment to a position at a higher labor grade.

“Promotional Examination” shall mean a test or examination which may include but not be limited to a oral board, written test, performance test, assessment center, drug and alcohol testing, physical and or psychological examination and/or physical fitness assessment to determine the qualifications of an individual to fill a higher position within the Town Compensation Manual

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“Suspension” shall mean an enforced leave of absence for disciplinary purposes or pending the outcome of an investigation of charges against an employee.

“Wages” shall mean compensation, including hourly health and welfare, and pension fund contributions, for labor or services rendered by an employee, whether the amount is determined on a time, task, piece, commission, or other basis of calculation. (See RSA 275:42, III)

“Work Week” shall mean seven consecutive 24 hour days beginning at 12:00 AM Monday through 11:59 PM Sunday.

Chapter 4: Equal Employment Opportunity and Policy Against Discrimination and Harassment

Equal Employment Opportunity: New Durham is committed to a policy of equal employment opportunity to all persons based on individual merit, competence and need. New Durham will not discriminate against employees or applicants for employment based on any legally-protected status, including, but not limited to: veteran or military status, marital status, physical or mental disability, age, race, color, religion, sex, sexual orientation, pregnancy, national origin, genetic information or ancestry. This policy applies to all terms and conditions of employment including, but not limited to, hiring, placement, promotion, termination, layoff, recall, transfer, leaves of absence, compensation, benefits and training.

In support of our commitment to equal employment opportunities, the Town of New Durham prohibits harassment of one employee by another employee or supervisor on any of the bases discussed above. Any employee who harasses another employee, citizen, or visitor on any of the bases discussed above will be subject to discipline, up to and including termination of employment.

Hostile Work Environment: New Durham does not tolerate a hostile work environment which is the discretionary conduct or behavior in the workplace that is unwelcomed, offensive, intimidating or an oppressive atmosphere generated by the harasser to an employee or to a group of employees. A hostile work environment may be based on non-sexual harassment or sexual harassment. It may also exist when management acts in a manner or allows a subordinate to act in a manner designed to make an employee quit or fear going to work.

The simple teasing or offhand remark does not qualify as a hostile work environment rather the behavior of the harasser must be objectively offensive as to alter the conditions of the individual's work environment. In addition the conduct or behavior of the harasser must constitute a pattern rather than consist of one or two isolated incidents.

Harassment: New Durham defines harassment as verbal and physical conduct that denigrates or shows hostility or aversion toward an individual because of his or her race, color, sex, pregnancy, national origin, ancestry, age, religion, disability, marital status, sexual orientation or veteran status, or that of his or her immediate family, friends, or associates, and that:

- (1) Has the purpose or effect of creating an intimidating, hostile or offensive work environment;

- (2) Has the purpose or effect of unreasonably interfering with an individual's work performance; or
- (3) Otherwise adversely affects an individual's employment opportunities.

It is not possible to list all of the circumstances and behaviors that may constitute unlawful harassment in violation of New Durham policy. However, the following are some examples of conduct which may constitute harassment:

- epithets, slurs, negative stereotyping, or threatening, intimidating or hostile acts that are based on or that relate to race, color, religion, gender, national origin, genetic information, ancestry, pregnancy, age, disability, sexual orientation, marital status, or veteran status; and
- written or graphic material that denigrates or shows hostility toward an individual or group because of race, color, gender, religion, marital status, pregnancy, national origin, genetic information, ancestry, age, disability, sexual orientation or veteran status; and,
- Offensive comments, jokes, innuendos, and other statements or conduct based on an individual's membership in any of the legally protected categories listed above.

New Durham prohibits all of the activities discussed above, whether engaged in by a supervisor, agent, employee, co-worker, or non-employee (such as a vendor) who is on our premises or who comes in contact with our employees. Any supervisor or employee who harasses or discriminates against another employee or non-employee on any basis discussed above will be subject to discipline, up to and including termination of employment.

If you experience or witness what you believe may be harassment and/or discrimination in violation of this policy, you should immediately report the incident. All reports must be in accordance with the Reporting Procedure contained in this Personnel Manual in Appendix D. The matter will be promptly investigated and appropriate action will be taken, depending on the nature and severity of any proven incident.

Retaliation against an employee who complains in good faith about harassment and or discrimination or who participates in good faith in an investigation of a complaint is a violation of this policy. Retaliation is a form of unlawful harassment and will be handled in the same manner as other forms of harassment. If you believe that you have been subjected to retaliation, you should report the incident in accordance with the Reporting Procedure contained in Appendix D of this Manual.

Sexual Harassment: The Town of New Durham's goal is to provide a workplace that is free of sexual harassment. Sexual harassment of employees in the workplace or in other settings in which employees may find themselves in connection with their employment is unlawful and will not be tolerated by our Town. Further, any retaliation against an individual who has complained about sexual harassment and/or retaliation against an individual who has cooperated in an investigation of sexual harassment is unlawful and will not be tolerated.

Because the New Durham takes allegations of sexual harassment seriously, we will respond promptly to complaints of sexual harassment. Where it is determined that inappropriate conduct has occurred, New Durham will act promptly to eliminate the conduct and implement any necessary remedial or corrective action, including disciplinary action where appropriate.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, physical, and nonphysical conduct of a sexual nature when:

- Submission to such conduct is made explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual, or for awarding or withholding a favorable employment opportunity, evaluation or assistance; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's performance at work, or creates an intimidating, hostile, or offensive work environment.

Sexual harassment includes a wide range of behaviors from the actual coercion of sexual relations to unwelcome offensive comments, jokes, innuendoes and other sexually oriented statements and unwelcome behavior emphasizing sexual identity. Sexual harassment may be indirect and even unintentional. Employees are prohibited from bringing into the workplace or otherwise displaying any written materials or pictures that are sexually suggestive or offensive in nature.

This policy prohibits all of the activities discussed above, whether engaged in by a supervisor, employee, co-worker, agent or non-employee who is on Town premises or who comes into contact with Town employees.

It is not possible to list all of the additional circumstances and behaviors that may constitute sexual harassment or other inappropriate conduct that will not be tolerated. However, the following are some examples of prohibited conduct:

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

Complaints of Sexual Harassment: Experience has shown that a clear statement to the person engaging in the offensive behavior is sometimes all that is necessary to stop the conduct. If you believe you are being harassed, we encourage you to let the person engaging in the conduct know how you feel. However, if you do not feel comfortable taking this step, you are not required to do so. If you believe that you have been subjected to sexual harassment, you should report the incident immediately. All reports must be made in accordance with the Reporting Procedure contained in Appendix D. The matter will be promptly investigated and where it is determined that such inappropriate conduct has occurred, action will be taken to eliminate and correct the conduct. Employees who violate this policy will be subject to disciplinary action, up to and including termination of employment.

Retaliation: Retaliation against an employee who complains in good faith about sexual harassment or who participates in good faith in an investigation of a complaint is a violation of this policy and is prohibited by law. If you believe that you have been subjected to retaliation, you must report the incident in accordance with the Reporting Procedure contained in this Manual.

Chapter 5: ACCOMMODATION FOR INDIVIDUALS WITH DISABILITIES

In accordance with the Americans with Disabilities Act of 1990 (“ADA”) and RSA 354-A, the Town of New Durham prohibits any form of discrimination in hiring as well as in all terms and conditions of employment against individuals with physical or mental disabilities. We will make every effort to make reasonable accommodations to ensure equal opportunity for qualified individuals with disabilities in the application process and in performing essential job functions, so as to afford enjoyment of the same benefits and privileges of employment as are enjoyed by employees without disabilities.

Please notify the Office of the Board of Selectmen if, because of a disability, you require an accommodation to perform the essential functions of your job. You may be asked to provide medical information regarding your disability and possible accommodations, and we expect that you will engage in this interactive process in good faith so that we may determine eligibility for accommodation and identify reasonable accommodations. We will maintain all medical information in a confidential manner in accordance with the ADA, and will provide reasonable accommodations as required by law. The Town may decline to provide accommodations to individuals who are not qualified individuals within the meaning of the law, and may also decline to provide accommodations that are not reasonable or that cause an undue hardship.

Pursuant to Section 35.107 of the ADA, the Town of New Durham has designated the Town Administrator to be the ADA Coordinator. That individual will coordinate the Town’s efforts to comply with the Americans with Disabilities Act, including investigation of any complaint alleging non-compliance or actions that would be prohibited by this Act.

Grievance Procedure: Grievances under the ADA will be handled according to the following five-step procedure:

1. Any individual may file an ADA grievance. The grievance should be in writing and briefly describe the action alleged to be prohibited by the Act.
2. The ADA Coordinator shall conduct an investigation of the grievance as may be appropriate to determine its validity. In cases where the ADA Coordinator is directly involved with the grievance, the grievant shall be given the option of having an alternate ADA Coordinator, named by the Board of Selectmen, for subsequent actions on the grievance.
3. Within ten (10) business days of receipt of the grievance, the ADA Coordinator shall meet with the grievant to discuss the findings of the investigation. The ADA Coordinator may attempt to resolve the grievance.

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4. If unable to resolve the grievance, the ADA Coordinator shall, within ten (10) business days of the meeting with the grievant, forward a report on the facts to the Board of Selectmen, who shall meet with the individual that filed the grievance within fifteen (15) business days of receiving the report and attempt to resolve the grievance.
5. If unable to resolve the grievance, the Board of Selectmen shall refer the matter to the Town's legal counsel.

The right of a person to a prompt and equitable resolution of a grievance filed hereunder shall not be impaired by the person's pursuit of other remedies.

Chapter 6: EMPLOYMENT

It is the Town's policy to employ, retain, promote, terminate, and otherwise treat any and all employees and job applicants on the basis of merit, qualifications, and competence. All hiring shall be in accordance with the Town of New Durham Hiring Policy which was effective August 24, 2011.

Employment At Will: Unless otherwise provided in a written contract or unless set forth by statute, New Durham employees are considered to be employees at-will. Employment at-will status enables both the Town and the employee to terminate the employment relationship with or without cause or notice, at any time, for no reason or for any reason not prohibited by law. Neither the policies contained in this Manual, nor any other written or verbal communication by a supervisor or official, are intended to change the at-will relationship or create a contract of employment.

Employment Classifications: When you are hired, you are classified as full-time, part-time, temporary or seasonal employee and you are informed as to whether you qualify for overtime pay. You are also classified as an exempt or non-exempt employee. If you are unsure of which job classification your position fits, please contact your Department Head.

Exempt Employees and Non-Exempt: All employees will be classified as either “exempt” or “non-exempt.” Exempt employees are paid on a salary basis and their duties and responsibilities allow them to be considered exempt from the overtime requirements of the Fair Labor Standards Act (“FLSA”). Therefore, these employees are not eligible to receive overtime pay. Non-exempt employees do not meet the requirements necessary to be considered exempt from the overtime provisions of the FLSA. Therefore, these employees are eligible for overtime pay in accordance with the FLSA and New Durham policy. If you have questions about whether you are classified as exempt or non-exempt under the FLSA, please contact your Department Head.

Appointing or Hiring Authority: Appointment or hiring of employees shall be in accordance with the following:

The Board of Selectmen (BOS) is the hiring authority for all Town positions except the following:

- Library Trustees for all positions under the Library Trustee’s authority. (See RSA 202-A:11 V)
- The Parks and Recreation Commissioners for all positions funded 100% from the Parks and Recreation Revolving Fund. (See RSA 35-B).
- The Fire Chief for all Fire Fighters in the Fire Department. (See Minutes of the Town Meeting of 2008 Warrant Article # 23)
- The Board of Selectmen must consult with the Chair of the Planning Board and

Zoning Board of Adjustment regarding the hiring of Land Use staff.

- With the approval of the Board of Selectmen the Town Clerk shall appoint the Deputy Town Clerk's position (See RSA 41:18)
- With the approval of the Board of Selectmen the Tax Collector shall appoint the Deputy Tax Collector. (See RSA 41:38).

Recruitment: When a vacancy occurs in a non-exempt position the Department Head shall notify the Town Administrator, stating the date of vacancy, position, title and other pertinent facts which may be necessary.

When a Department Head wishes to establish a new position, they shall notify the Town Administrator in writing, stating the job title, if such a title exists, or submitting a suggested job description if no such job title exists and the reasons for the request. The Department Head shall meet with the Board of Selectmen to discuss the request. No new position shall be established without the approval of the Board of Selectmen.

It is the policy of this Town that all positions shall be filled by the most qualified persons who have been examined on the basis of job related criteria. A position may be filled by an applicant who is or is not a current Town employee. It shall be the policy of the Town to select persons currently employed by the Town to fill vacancies for which they are qualified to recognize skill, performance and service with the Town when it is in the best interest of the Town to do so. The Town will assess interested employees for the necessary knowledge, skills and experience required for the position being filled. An individual's performance in their current position will be weighed as an indicator of likely success in a new position.

The process for filling an empty or new position shall be as follows:

1. The Department Head meets with the Board of Selectmen (BOS) to request permission to fill a position.
 - The Board of Selectmen, in consultation with the Department Head, shall set the salary range for the position.
 - With the approval of the Board of Selectmen the Town Clerk shall appoint the Deputy Town Clerk's position (See RSA 41:18) and the Deputy Tax Collector. (See RSA 41:38).
2. The opening is posted in all departments for 5 business days then externally advertised. Applications shall be accepted for a maximum of 10 business days after the position is externally advertised.
 - The Department Head may request that the BOS accept applications for a longer period of time.
 - All qualified town employees that apply for the position shall be interviewed.

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3. The applicant shall submit a completed application, with supporting documentation (ex. documentation of required education, resume, etc.) to the Office of the Board of Selectmen. (See Appendix A of the Hiring Policy) The Board of Selectmen shall forward the applications and/or resumes to the appropriate Department Head for review. Applicants for Police Officer will submit a resume in addition to the application.
4. The Department Head or designee shall see that the following occurs:
 - Oral interviews by at least the Department Head, one member of the Board of Selectmen and the Town Administrator. Additional interviewers may be added as determined by the Board of Selectmen and or Department Head.
 - All requirements specified by NH Police Standards and Training for Police Officers.
 - Criminal History check if the applicant is age 17 or older
 - New Hampshire Motor Vehicle records check and record check of any other state in which the applicant has been a resident in the past 5 year, if the applicant holds a New Hampshire or other State driver's license.
5. At least 3 days prior to the meeting at which the applicant is to be presented to the BOS (See # 6) the file of the applicant shall be placed in the Office of the Selectmen for their review.
6. Once the results of the criminal history and motor vehicle record checks have been received by the Town the Department Head shall present the applicant to the Board of Selectmen for all applicants that the Board has hiring authority for.
7. All applicants will have a 2 week vetting process in accordance with the Town of New Durham Board of Selectmen Appointment Policy effective September 17, 2007 unless the Board of Selectmen, at a public meeting, waives the vetting process.
8. Upon receiving the positive recommendation of the Board of Selectmen, the Town Administrator shall send the applicant a written "Conditional Offer of Probationary Employment" letter. (See example - Appendix B of the Hiring Policy)
9. The applicant must successfully complete:
 - Reference checks for the selected applicant (See Appendix C of the Hiring Policy.) Results shall be included in "new hire" documentation.
 - Background check for all applicants for Police Officer.
 - A physical examination for all applicants at the Town's expense. Potential employees of the Fire, Highway, Police Department and the Transfer Station shall also be offered the option of the Hepatitis B vaccination at the Town's expense.
 - An in house financial background check for any individual that will be handling

money and all police officers.

- A personal history packet for applicants for Police Officer.
10. The Town Administrator signs the Offer of Probationary Employment letter and sends it to the applicant. (See example – Appendix D of the Hiring Policy) Also included is the Second Injury Fund Employee Information for the applicant to complete and to return along with signed Offer of Probationary Employment. (See Appendix E of the Hiring Policy)
 11. At a minimum the new Employee completes the:
 - Emergency Contact Form (Appendix F)
 - W4 – Federal Withholding
 - I 9 - Employee Eligibility Verification
 - Documentation of acceptance/rejection of Hepatitis B vaccination series if they are to be employed by the Fire Department, Highway Department, Police Department or Solid Waste/Transfer Station. (See Appendix G of the Hiring Policy).
 12. The new Employee submits a copy of the following to the Financial Officer:
 - New Hampshire Youth Employment Certificate if under the age of 16.
 - State of New Hampshire Proof of Permission For the Employment of a Youth Aged 16 or 17
 13. The Department Head completes the “Personnel Action Form” (PAF) with a starting date of employment and starting wage. The PAF must be signed by the Department Head and Employee before submission to the BOS. The starting date must be after the Department Head, new employee and Selectmen representative have signed the PAF. (See Appendix H of the Hiring Policy)
 14. The PAF and all required documentation must be received by the Financial Officer PRIOR to the first day of employment for all employees.

Probationary Period: All original and promotional appointments shall be required to successfully complete a probationary period of not less than twelve (12) consecutive calendar months. At a minimum each probationary Employee shall receive a performance evaluation after six (6) months of employment to determine skill levels, adaptation to the job and the work environment, adaptation to fellow employees, and the need, if any, for remedial training. The Department Head or their designee (or the Board of Selectmen for Department Heads) shall meet with each new or prompted employee to review the employee’s performance evaluation. Where appropriate, remedial suggestions for improvement shall be offered.

The employee shall receive a second performance evaluation after 11 months of employment to determine if the employee should continue employment with the Town, have their probationary status continued or be terminated. The Department Head or their designee

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(or the Board of Selectmen for Department Heads) shall meet with each new or promoted employee to review the employee's performance evaluation. Where appropriate, remedial suggestions for improvement shall be offered.

During the probationary period an employee may be dismissed at any time without the right of appeal or hearing in any manner. At the end of this probationary period there is no implied contract of continued employment during this probationary period and beyond.

A probationary period may be extended by the appointing or hiring authority, as needed, with the employee receiving written notice prior to the conclusion of the original probationary period. The extended probationary period is to permit further evaluation of the employee's skills and adaptation to the job and shall not exceed ninety (90) calendar days. There shall be only one extension of a probationary period granted for any probationary employee. There is no implied contract of continued employment during this extended probationary period.

Performance Evaluations and Fitness for Duty: The Town will continue to evaluate the performance of its employees and their fitness for the performance of their duties. The Town will determine the type and frequency of such evaluations, however all employees shall receive a performance evaluation at least once a year after completion of the probationary period. Such evaluations may include physical examination by a licensed health care practitioner and or fitness review, random drug and alcohol testing, in addition to an objective analysis of each employee's competence and skill in carrying out his or her assigned duties over a defined period of time. The physical examination and or fitness review shall be based on bona fide occupation standards that reasonably relate to the position in question, with consideration given by the Town to accommodating physical handicaps and limitations to determine fitness for a specific job classification. The employee shall be permitted to permanently affix any written responses to the performance evaluations and shall receive a copy thereof.

Employment of Immediate Family Members: No immediate family member may work in the same department as an employee if the employment relationship is such that the immediate family member is supervised at any time by the employee or where the employment relationship may cause a potential conflict of interest unless the Department Head requests specific approval from the Board of Selectmen.

Reemployment of Former Employees: If an employee is rehired and the position requires a pre-employment physical, the applicant shall successfully compete a physical examination if they have not completed a physical examination that is equal to or more stringent than the Town's required examination within the last ninety (90) days.

Chapter 7: COMPENSATION

Pay Periods: Employees are paid on a biweekly basis on Thursdays for all hours worked and accounted for during the two (2) calendar weeks preceding pay period. If Thursday is a holiday employees shall be paid on Wednesday. Department heads shall submit bi-weekly payroll accounts to the Financial Officer no later than 1:00 PM on Monday during the week that payroll is to be issued. Failure to submit payroll accounts and or time sheets by that time may delay payment. Please review your paycheck for errors.

Base Compensation: Employees will be paid at a rate approved by the Board of Selectmen. Considerations may include requisite qualifications, prevailing rates of pay for comparable work in other private and public employment, cost of living factors, maintenance and other benefits received by employees of the Town, the financial ability of the Town, and other economic considerations. Selectmen will attempt to take into consideration conditions of merit and seek to reward those employees who have performed meritorious service to the Town.

On Call: Some employees may be subject to being called back to work thereby being unable to leave the area while waiting to be called back to work. Such employees shall be notified in advance as to when they are expected to be on call. The employee shall receive one hour of regular pay for any part of an eight (8) hour time block that they are required to be "On Call".

Overtime: From time to time, it may be necessary to perform overtime work. All overtime must be approved in advance by your Supervisor. Failure to receive prior approval for overtime may result in disciplinary action. Except in an emergency, your Department Head will attempt to provide you with advanced notice of the necessity for overtime work. All non-exempt employees are entitled to be paid one and one-half times their regular rate of pay for all time worked in excess of forty (40) hours per week. Sick days, holidays, annual leave, compensatory time, paid leaves of absence or other paid time off benefits are to be counted as time worked for purposes of overtime. You will be advised when you are hired if you are entitled to overtime pay.

Non Exempt Employees who are called back to work on the same day after once leaving work or before the next regular starting time shall be paid at their overtime rate for all hours worked during the call back time period. Employees are guaranteed a minimum of one (1) hour at their premium overtime rate under this call back.

Overtime for part-time employees shall be calculated as prescribed by law after the part-time employee has worked in excess of forty (40) hours in a given week.

Compensatory Time: Exempt employees, as determined under the Fair Labor Standards Act, shall not be allowed to accrue any compensatory time unless specified in their

contract.

Non-exempt employees may be allowed to earn compensatory time in lieu of overtime pay in compliance with the provisions of the Fair Labor Standards Act. Compensatory time shall be awarded at the rate of one and one half hours for each overtime hour worked and must be approved in advance by your supervisor. Failure to receive prior approval may result in disciplinary action. Employees may not accrue more than 40 hours of compensatory time at any one time, not to lapse at the end of the year. (Revised 9/5/2012)

Requests to use compensatory time shall be made at least two (2) working days in advance to your department head or supervisor. They shall notify the employee if their request for use of authorized, accrued compensatory time has been granted unless to do so would disrupt the operations of the Town. The department head may waive the requirement for advance notice.

At the end of employment, for any reason, the employee will be paid for unused compensatory time at their current rate of pay.

Longevity Pay: To recognize the service and tenure of longer-term Town employees, the Town shall provide an added benefit of Longevity Pay. The annual stipend will be paid to all full time employees who have five or more years of service to the municipality. Part time employees receiving longevity pay as of February 1, 2012 shall continue to receive 50% of the longevity pay for a corresponding full time employee. After February 1, 2012 no other part time, seasonal or temporary employees will receive longevity pay. The Longevity Pay shall be paid on an annual basis during the first two weeks of December. Longevity Pay shall only be paid to those employees who are in the Town's employ at the time the benefit checks are being issued in December, and shall not be pro-rated for employees who may leave the Town's employ prior to that time.

Longevity Pay shall be issued based on the following schedule:

<u>Years of Service</u>	<u>Amount</u>
Five (5) to Nine(9)	\$ 300
Ten (10) to Fourteen (14)	\$ 600
Fifteen (15) to Nineteen (19)	\$ 900
Twenty (20) to Twenty-four (24)	\$1,200
Twenty-five (25) to twenty nine (29)	\$1,500
Thirty (30) or more	\$ 1800

Business and Travel Reimbursement: Necessary travel incidental to duties and performed in the town employee or official's personal vehicle shall be reimbursed at the current Internal Revenue Service (IRS) allowable rate per mile for all business miles driven, plus any

charges for parking with the submission of a receipt. Tolls shall be reimbursed at the E-Z pass rate unless a receipt is submitted.

Town employees and officials shall be reimbursed for meals when on official business involving an overnight stay, or attending a meeting or training session. Actual expense of the meal (without alcoholic beverage) shall be allowed, plus tax and gratuity but shall not exceed the following: Breakfast = \$ 8, Lunch = \$ 12, Dinner = \$21. A receipt shall be submitted for any meal reimbursement.

Town employees and officials shall be reimbursed at the actual cost for lodging associated with official business. Hotel or motel bills must be attached to expense vouchers. The employee is responsible for notifying the business that New Durham is a political subdivision and not subject to New Hampshire Rooms and Meals Tax for all instate lodging.

It is the responsibility of all employees and officials on travel status to make sure there are sufficient funds available before they undertake the travel or incur the expense.

All reimbursement vouchers must be approved by the Department Head. When the reimbursement is anticipated to be \$ 500 or more per person the Town Administrator must give prior approval.

Payroll Deductions for All Employees: There are two categories of payroll deductions, those required by state or federal law and those authorized by the employee. Payroll deductions required by state and federal law include federal withholding, income tax, social security tax, and wage garnishments as required by law (i.e. child support payments, court-ordered payments, IRS garnishments). If authorized by an eligible employee, the Town of New Durham will also make payroll deductions for health insurance, savings plans, and voluntary contributions to a retirement plan. These deductions will be itemized on your check stub.

Under New Hampshire RSA 275:48 the Town of New Durham may not withhold, make use of any portion of, or require any employee to remit any portion of an employee's wages except, with appropriate authorization, such as health, insurances or pension contributions. Section 125 and 132 of the Internal Revenue Code may also affect what deductions may be made.

Payroll Deductions for Salaried Exempt Employees: New Durham complies with all federal and state laws with regard to deductions from paychecks, including deductions from the salaries of exempt employees. In accordance with the laws, salaried exempt employees receive a predetermined salary which is not subject to reduction because of variations in the quality or quantity of work performed and is not subject to reduction for absences requested by the Town or due to the operating requirements of the Town. The Town of New Durham recognizes that under federal and state law there are only limited times when a salaried employee's salary can be subject to deductions. A salaried employee of the Town of New

Durham may not be paid a full salary in those instances authorized by RSA 275:43-b.

New Durham prohibits deductions from salaries that are inconsistent with the status of an exempt employee. Exempt employees should note that salaries are subject to modification from time to time, such as at evaluation time, when an employee's position or responsibilities change, and at other appropriate times. Exempt employees should also note that it is permissible for an employer to apply vacation, sick, personal and other forms of paid time off to partial or full-day absences for personal reasons, sickness, or disability, and that applying paid time is not considered a deduction from salary.

Questions Regarding Paychecks and Deductions: If you have any questions or concerns about your paycheck or any deductions from your pay, please contact New Durham's Financial Officer as soon as possible. If you do not receive a prompt response or are dissatisfied in any way with the response you receive, you should feel free to contact the Office of the Board of Selectmen.

Questions and concerns regarding pay and deductions will be investigated and addressed promptly. If there has been an error, such as a deduction made in error, the employee will receive a corrected check or a check reimbursing the employee for the error, whichever is more practicable under the circumstances. Employees should feel free to communicate any questions or concerns regarding pay or deductions. The Town will not tolerate retaliation against employees who have expressed concerns using this procedure.

Full-time employees receive all benefits and rights provided in these policies, upon successful completion of the probationary period.

Temporary employees, who may include a person hired under an existing federal manpower program, will receive benefits as required by applicable federal and state laws, and this manual. Hours of work may be less than the standard work week

Chapter 8: HOURS OF EMPLOYMENT and ATTENDANCE

Work Week: The Town of New Durham's work week begins at 12:00 AM Monday through 11:59 PM Sunday.

Work Day: The length of the normal workday shall be eight (8) hours. If it is in the best interests of the Town, a Department Head, with the approval of the Board of Selectmen, may adopt an alternative or flexible work schedule.

Hours of Work: Actual starting and quitting times vary from department to department. The department head, with the approval of the Board of Selectmen, will determine the hours of work both daily and weekly. During your orientation your Department Head will notify you of your work schedule and hours of work. Department heads shall maintain the ability to manage their respective departments and change hours of work as necessary. Department heads shall advise the Board of Selectmen of changes to schedules.

The Town of New Durham requires the presence and diligent efforts of employees in order to provide the requisite level of service to our community. The Town reserves the right to alter or amend any employee's work schedule at its own discretion and in accordance with the needs of the Town.

Employees are expected to work their scheduled hours. It is important that your time be accurately reported so that you are compensated for the hours that you work. The employee is responsible for ensuring that their time sheet fully and accurately reflects their hours of work prior to signing it. Employees may not provide any false information on time records or any other Town records. Falsification of records could lead to disciplinary action, up to and including termination from employment. Your supervisor will provide you with details concerning how you are to report all time you have worked.

Attendance: Attendance and punctuality are important factors for your success in New Durham. Employees are expected and required to be in attendance, prepared to commence work activities, at the designated work locations, on all assigned days, and during assigned hours. However, the Town is aware that emergencies, illnesses, or pressing personal business that cannot be scheduled outside work hours may arise. Employees must contact their Department Head or supervisor if they are unable to arrive at work on time, or if they are unable to come to work for the day. Where employees are found to abuse absence time from scheduled work, the Town may find it necessary to attempt correction of the situation by counseling, disciplinary measures, or termination.

For late arrivals, the employee should indicate when he or she expects to arrive for work. If the employee is unable to call in because of an illness, emergency or for some other reason, the employee shall arrange to have someone call on his or her behalf. If

you are unable to personally contact your department head he/she or the Town Administrator may request verification of the reason for non-attendance.

Tardiness or leaving early is often as detrimental to the Town as an absence. Three (3) such incidents in a 90-day period will be considered a “tardiness pattern” and will be considered excessive, and the reasons for tardiness or leaving early may come under question. Other factors, like the degree of lateness, may be considered.

All employees should be aware that excessive absenteeism, lateness, or leaving early may lead to disciplinary action, up to and including dismissal from employment. Attendance records will be considered when evaluating requests for promotions, transfers, leaves of absence, and approved time off, as well as disciplinary, termination, and layoff decisions.

Any employee on an unauthorized absence for more than three (3) consecutive scheduled work days or shifts without acceptable notification to the Town will be deemed to have abandoned the position, and will be automatically terminated. Furthermore, three (3) unauthorized absences in a 90-day period, or a consistent pattern of absence, will be considered excessive, and the reasons for the absences may come under question.

Break Time: Generally, all Town employees will be provided with a thirty (30) minute unpaid meal period/break after five (5) consecutive hours of working as required by RSA 275:30-a. In some cases an employee cannot leave the work place unattended to take an unpaid break. In those specific instances, which have been identified by the Board of Selectmen, in accordance with RSA 275:30-a, the employee is permitted to eat while remaining in paid status. Fire protection and law enforcement personnel will receive meal breaks as established by their respective Departments Head. One or two paid break periods of fifteen (15) minutes will be granted during the work day if possible, but these breaks are not guaranteed.

Break Time for Nursing Mothers: In accordance with the Fair Labor Standards nursing mothers that are non-exempt employees will be provided with a reasonable break time for the employee to express breast milk for her nursing child for 1 year after the child’s birth each time such employee has need to express the milk. A private area will be provided. These breaks are unpaid.

Chapter 9: LEAVE TIME

Legal Holidays: Full-time and part-time employees working 28 hours or more a week on a continual and indefinite basis on February 1, 2012 are entitled to the paid holidays listed below, provided that the employee normally works on that day and provided that the employee was in paid status. For hourly employees, holiday pay will be paid at the straight time hourly rate for the hours normally worked that day. After February 1, 2012 no other part time, seasonal or temporary employees will receive this benefit.

The following holidays are observed by the Town:

New Year's Day	January 1st
Civil Rights Day	3 rd Monday in January
President's Day	3 rd Monday of February
Memorial Day	4 th Monday in May
Independence Day	July 4th
Labor Day	1 st Monday in September
Columbus Day	2 nd Monday in October
Veteran's Day	November 11th
Thanksgiving Day	4 th Thursday in November
Day after Thanksgiving	4 th Friday in November
Christmas Day	December 25th

All holidays will be observed on the day designated by the Federal Government. When a Holiday falls on a Saturday, the preceding Friday shall be declared a holiday. When a Holiday falls on a Sunday, the following Monday shall be declared a holiday for Town employees. Eligible employees who do not work on a holiday will be paid for the holiday at their regular straight time rate based on their regularly scheduled daily hours. Employees will not receive holiday pay for any holiday that occurs during any period that the employee is in unpaid status.

Eligible employees who work other than a Monday to Friday schedule and who are not scheduled to work on a calendar holiday will be given an additional eight (8) hours of pay at their regular rate of pay. Eligible employees that work on a calendar holiday shall be compensated for all hours worked at their regular rate of pay and in addition they shall receive pay at time and one half for hours actually worked.

Annual Leave: All full-time and any part-time employees routinely working 28 hours or

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more per week (at least 1,456 hours per year) as of February 1, 2012 are eligible for paid annual leave. After February 1, 2012 no other part time, seasonal or temporary employees will receive this benefit. Full-time Town of New Durham employees as of February 1, 2012 who transition after that date with Board of Selectmen approval to regular part-time and their scheduled work is 28 hours per week or more (1,456 hours per year or more), shall be eligible for one-half (1/2) annual paid leave that they would have received had their hours not been reduced. (Amended 12/16/13)

Annual leave is granted to eligible employees based upon length of service and anniversary date. If there is a break in service, eligibility for vacation will be based on the employee's most recent hire date. No part of an employee's scheduled use of annual leave may be converted to sick leave. If illness or injury occurs when the employee is on annual leave sick leave benefits will not begin until the employee is scheduled to return to work.

Employees shall submit their written leave requests on the required form by April 1st if at all possible. The minimum requirement for leave for four or more consecutive days regardless of the type of leave used shall be at least two (2) weeks before the requested start date. The Department Head shall notify the employee as to the approval or denial of the request within five working days of receipt of the leave form. Requests for leave for three or fewer days, regardless of the type of leave to be used, shall be submitted at least two (2) working days in advance. As use of leave at a particular time is contingent upon whether the employee's services can be spared during the time requested, employees must remember that submission of a leave request does not mean that the request is automatically approved. Therefore all requests are subject to pre-approval by the employee's supervisor. Failure to receive prior approval for use of annual leave may result in disciplinary action including loss of pay or termination. The appropriate Department Head, Town Administrator, and or Board of Selectmen may grant exceptions to this notice requirement, as they deem appropriate. All requests to use annual leave will be acted upon on a first come first serve basis. However, preference will be given to those employees requesting one or more consecutive weeks of accumulated leave provided the request is in accordance with the provisions outlined herein.

Annual leave shall be used at the rate of one day of paid leave for each normal work day for the employee. i.e., if someone normally is scheduled to work eight(8) hours per day, the annual leave that is used will be eight (8) hours for each full day requested; someone that normally is scheduled to work seven(7) hours per day, the annual leave that is used will be seven (7)hours for each full day requested. The employee may use annual leave in any size increment desired by the employee and approved by their supervisor.

Effective January 1, 2013 all full time employees shall accrue annual leave every two (2) weeks during the calendar year according to the following schedule:

<u>Employment period:</u>	<u>Full-Time Employees</u>	<u>Hours per Week</u>
First 3 years	80 hours	1.54 hours

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After 3 years	120 hours	2.308 hours
After 10 years	160 hours	3.08 hours
After 11 years	168 hours	3.23 hours
After 12 years	176 hours	3.38 hours
After 13 years	184 hours	3.54 hours
After 14 years	192 hours	3.67 hours

Effective January 1, 2013 part-time employees who are scheduled for 28 hours or more per week on of February 1, 2012 will earn annual leave at one-half (1/2) of the rate earned by full-time. Annual leave shall be accrued based upon the total eligible leave for the then current year as follows:

<u>Employment period:</u>	<u>Part-Time Employees</u>	<u>Hours per Week</u>
First 3 years	40 hours	0.7692 hours
After 3 years	60 hours	1.1538 hours
After 10 years	80 hours	1.5385 hours
After 11 years	84 hours	1.6153 hours
After 12 years	88 hours	1.6923 hours
After 13 years	92 hours	1.7692 hours
After 14 years	96 hours	1.8461 hours

Employees are encouraged to utilize the annual leave provided to them during the course of the year. Every employee shall utilize a minimum of 5 days of annual leave per year. A failure to utilize this 5 day minimum afforded to all employees by January 1st of the following year shall result in automatic loss of those days.

Unused annual leave may accumulate from year to year, but shall not exceed 360 hours or forty-five (45) days for full time employees and 180 hours or twenty two and one half (22½) days for eligible part time employees.

An employee will not be paid accrued, unused annual leave upon termination from employment unless the employee has been actively employed for at least six (6) months prior to the termination and in the event of:

1. Resignation or retirement, the employee has given two (2) weeks notice of his or her intent to resign or retire; or
2. Involuntary discharge, the termination was not “for cause,” as determined by the Town.

Sick Leave: The provisions of this section shall apply to full-time employees and to part-time employees who are routinely scheduled to work twenty-eight (28) hours or more per week if they were employed for 28 hours or more on February 1, 2012. Eligible part-time

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employees will accrue sick leave at one-half (1/2) of the rate earned by full-time employees (i.e. one-half day per calendar month). After February 1, 2012 no other part time, seasonal or temporary employees will receive this benefit. Full-time Town of New Durham employees as of February 1, 2012 who transition after that date with Board of Selectmen approval to regular part-time and their schedule work is 28 hours per week or more (1,456 hours per year or more), shall be eligible for one-half (1/2) annual sick leave that they would have received had their hours not been reduced. (Amended 12/16/13)

Sick leave shall be allowed only in case of necessity and actual sickness, or disability of the employee, the illness of a member of the employee's immediate family, non-work related injury, or accident of such a degree as to render the employee unable to perform the duties of his or her position unless the employee is capable of other available work and is assigned to such other work or to attend the services of someone who has died. Employees who find it necessary to meet dental or health care appointments or other sickness prevention measures, including maternity, for themselves or their immediate family shall also be allowed to utilize sick leave in accordance with the provisions of this section.

Sick leave shall be computed and accrued on a bi-weekly pay period basis, including the probationary period of an employee. Sick leave with pay shall be granted to all full time employees at the rate of one (1) day per calendar month worked, credited at the end of the month. Sick leave may be accumulated from year to year, but shall not exceed forty-five (45) days.

To receive compensation while absent on sick leave, whenever possible, the employee shall notify his or her Department Head, or designee, prior to the time set for beginning his or her daily duties or as may be specified by the Department Head. Employees who do not report to work due to illness must contact their Department Head or designee on a daily basis relative to the need for and status of their absences, unless otherwise directed. Reporting the absence to any employee other than to your Department Head or designee will not be accepted as compliance with the daily reporting requirement. Any employee who is sick three (3) or more consecutive days may be required to obtain a certificate from a health care practitioner at the employer's expense. A certificate from the employee's attending health care practitioner may be required for any illness by the Board of Selectmen or Town Administrator. Sick pay may not exceed the employee's regular workday and or work week hours. Employees who fail to report to work or call their Department Head or designee for three (3) consecutive work days will be considered to have voluntarily resigned from their employment

In the event that all accumulated sick leave has been used, employees may take any accumulated personal days, annual leave or compensatory time, in any order. An employee may also request a leave of absence without pay. See section "Personal Leave of Absence" for more information.

For the purposes of this section, the first month of an employee's service shall be

counted as a full month of service if employment begins on or before the 15th day of the month.

Full time employees may accrue up to 360 hours of sick leave. Eligible part time employees may accrue 180 hours of sick leave. Employees with less than ten (10) years of service to the town shall not be compensated for any accumulated sick leave upon separation of employment. Employees who have ten (10) or more years of continuous service with the town shall receive payment for 50% of their accumulated, unused sick leave upon separation of employment. Payment will be made at the employee's regular rate of pay at time of separation.

While use of sick leave for dental or health related appointments of the employee or their immediate family is allowed an employee must submit a leave request, using the required form, at least two (2) working days in advance to their supervisor. As use of sick leave for scheduled appointments is contingent upon whether the employee's services can be spared during the time requested, employees must remember that submission of a leave request does not mean that the request is automatically approved. Therefore all requests are subject to pre-approval by the employee's supervisor. Failure to receive prior approval for use of sick leave for scheduled appointments may result in disciplinary action including loss of pay or termination. The appropriate Department Head, Town Administrator, and or Board of Selectmen may grant exceptions to this notice requirement, as they deem appropriate.

Abuse of sick leave privileges shall be cause for disciplinary action up to and including dismissal.

Sick Leave in Conjunction with other Town Benefits. All employees covered by these policies who go on work related or non-work related injury-sick leave, disability or maternal leave, shall not receive in excess of 100% of their regular weekly wages or salary by collecting sick leave or annual leave in conjunction with other Town-provided benefits and or insurance

Personal Days: A full time employee shall be entitled to two (2) non-cumulative Personal Days per calendar year after the first year of full time employment. A part-time employee who was working 28 hours or more on February 1, 2012 shall be entitled to one (1) non-cumulative Personal Day per calendar year after the first year of working 28 hours or more. After February 1, 2012 no other part time, seasonal or temporary employees will receive this benefit. Full-time Town of New Durham employees as of February 1, 2012 who transition after that date with Board of Selectmen approval to regular part-time and their scheduled work is 28 hours per week or more (1,456 hours per year or more), shall be eligible for one-half (1/2) annual personal days that they would have received had their hours not been reduced. (Amended 12/16/13)

Personal Days may be taken at the option of the employee so long as notice is given at

least two (2) working days before the requested start date, using the required form, is provided to their supervisor. As use of leave at a particular time is contingent upon whether the employee's services can be spared during the time requested, employees must remember that submission of a leave request does not mean that the request is automatically approved. Therefore all requests are subject to pre-approval by the employee's supervisor. Failure to receive prior approval for use of annual leave may result in disciplinary action including loss of pay or termination. The appropriate Department Head, the Town Administrator, and or Board of Selectmen may grant exceptions to the notice requirement, as they deem appropriate.

Personal Days shall be earned and used as follows: The first Personal Day shall be allotted on January 1st of each year, while the second Personal Day shall be allotted on July 1st. All Personal Days shall be used by December 31st of each year, and shall not be carried forward into the next year.

Administrative Leave: Administrative leave is intended to allow the Town to place an employee in a leave status with pay or without pay for a fixed duration pending the conclusion of an investigation, review of performance or other circumstances not covered under other policies of the Town, that may require the removal of the employee from the workplace until the matter is reviewed and or resolved. Public safety departments may have more stringent written policies.

Administrative leave shall be initiated by an employee's department head or supervisor for the circumstances stated above. The written documentation shall clearly state the reasons for the request, the anticipated duration of the leave and whether it will be with pay or without pay. The department head shall review the circumstance that resulted in the administrative leave with the Town Administrator as soon as possible. The Department Head and Town Administrator shall meet with the Board of Selectmen to discuss the circumstances that warranted administrative leave to determine if it shall be continued beyond the initial seven days.

Bereavement Leave: Bereavement leave will be granted by the Board of Selectmen, Town Administrator, and or Department Head without loss of pay, for full time employees, which shall include critical illness or death in the immediate family. The employee, on request, will be excused for up to 5 scheduled work days between the date of critical illness and the date of the funeral, inclusive. Pay for part-time employees who were employed for 28 hours or more as of February 1, 2012 will be pro-rated based on the average number of hours, the employee regularly works on those days. After February 1, 2012 no other part time, seasonal or temporary employee will receive this benefit. Employees may use any of their accrued leave if more than 5 days off is necessary.

Full time employees will be allowed one day off from work per year without loss of pay to attend services for the death of an individual not listed in the definition of immediate family.

Probationary employees may use any accrued leave for a death that occurs in their immediate family.

Court, Jury or Witness Leave: The Town considers it a civic duty to serve on a jury if summoned and will grant you leave in order to serve on a jury. An employee shall be excused from employment for the day or days they are required to serve as a juror or witness in any court of the United States or the employee's state of residence. The employee summoned as a juror or for any other required appearance before a court or other public body, not resulting from their own request or violation of law, will be paid their regular day's pay (or overtime if eligible) after producing satisfactory evidence of such service to the employee's immediate supervisor. The employee shall assign the court fee to the Town. For part-time and temporary employees, jury or witness duty will be considered an excused unpaid absence. Employees who are called to jury duty and are excused from jury duty for a day(s) shall report to their regular work assignment as soon as possible after being excused.

An employee, if subpoenaed to testify on behalf of the Town, will receive overtime pay for time spent outside of their regular duty shift, including travel time.

Family and Medical Leave (FMLA): Since the Town of New Durham employs 50 or more individuals and is a public agency it must comply with the requirements of the Family and Medical Leave Act (FMLA).

Eligibility Requirements: To be eligible for FMLA leave, the employee must have worked for the Town for at least twelve (12) months, and must have performed at least 1,250 hours of work in twelve (12) months prior to a leave request.

Under FMLA, an eligible employee may take an unpaid leave of absence and be restored to the same or an equivalent position upon their return to work for any of the following reasons:

1. The birth of the employee's child and to care for the newborn child (leave must be taken within twelve (12) months of the birth of the child);
2. The placement of a child with the employee for adoption or foster care, and in order to care for the newly placed child (leave must be taken within twelve (12) months of the adoption or placement of the child);
3. The serious health condition of a spouse, parent, minor child, or adult child when the adult child is incapable of self-care and the employee is needed for such care ("covered family members");
4. The employee's own serious health condition that renders the employee unable to perform his or her job;

5. A “qualifying exigency” (as defined in the Department of Labor Regulations) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on “covered active duty” or has been notified of an impending call or order to “covered active duty” in the United States Armed Forces;
6. The employee is a spouse, son, daughter, parent, or next of kin of a “covered service member” (as defined in the Department of Labor Regulations) who has a serious injury or illness and the employee is needed to care for such person.

Leave Entitlement: If an employee takes FMLA leave for a reason stated in paragraphs (1)-(5), above, the employee is entitled to up to twelve (12) workweeks of unpaid leave during a twelve (12) month period. That twelve (12) month period is defined as a "rolling" twelve (12) month period measured backward from the date an employee begins an FMLA leave. For example, if an employee used four weeks beginning February 1, 2008, four weeks beginning June 1, 2008, and four weeks beginning December 1, 2008, the employee would not be entitled to any additional leave until February 1, 2009. Beginning on February 1, 2009, the employee would be entitled to start accruing a new four weeks of leave; on June 1, 2009, the employee would be entitled to start accruing four additional weeks; and so on.

If an employee takes FMLA leave for the reason stated in paragraph (6), above, the employee may take up to 26 weeks of unpaid FMLA leave within a single 12-month period. This 12-month period begins on the first day of leave.

An employee who takes FMLA leave for a reason stated in paragraph (6), above, will be limited to a combined total of 26 workweeks of leave for any FMLA-qualifying reason during the single 12-month period. The leave entitlement described in paragraph (6) above is to be applied on a per-covered-service member, per injury basis such that an eligible employee may be entitled to take more than one period of 26 workweeks of leave if the leave is to care for different covered service members or to care for the same service member with a subsequent serious illness of injury, except that no more than 26 workweeks of leave may be taken within any single 12-month period.

Tracking FMLA Leave: When an eligible employee requests any leave of absence that qualifies under the FMLA, the Town has the right to designate such leave as FMLA leave. For example, if an eligible employee suffers a work related injury that qualifies as a serious health condition, the Town has the right to designate any time away from work as FMLA leave. In such circumstances, the Town will provide the employee with the same notifications as though the employee had specifically requested FMLA leave.

Intermittent and Reduced Schedule Leave: Under some circumstances, employees may take FMLA leaves of absences intermittently (in separate blocks of time due to a single FMLA qualifying reason) or on a reduced leave schedule (reducing the usual number of hours an employee works per workweek or workday). Certification will be

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required to show that an intermittent or a reduced schedule leave is a medical necessity for leaves under paragraphs (3), (4), and (6), above. Other documentation or certification may be required to show that such an intermittent or a reduced schedule leave is necessary in the case of a leave of a “qualified exigency” under paragraph (5), above.

If FMLA leave is for birth and care, or placement for adoption or foster care, as described in paragraphs (1) and (2), above, use of intermittent leave is subject to Town approval.

When an employee takes intermittent or reduced schedule leave, time spent working will not be counted against the employee’s FMLA entitlement.

Employees taking intermittent or reduced schedule leave will be paid for the time they work, and the leave time away from work will be unpaid unless the employee qualifies for workers’ compensation, short-term disability, or other benefits. If an employee is a salaried employee, the Town will adjust the employee’s salary based on the amount of time actually worked.

While an employee is on intermittent or reduced schedule FMLA leave, the Town may temporarily transfer the employee to an available alternate position that better accommodates the employee’s recurring leave and that has equivalent pay and benefits.

Employees who take intermittent leave for a planned medical treatment have an obligation to make a “reasonable effort” to schedule the treatment so as not to unduly disrupt the Town’s operations.

Status of Employee Benefits: Employees are required to use any accrued, unused paid time off during FMLA leave unless the FMLA leave is otherwise paid through workers’ compensation benefits, short-term disability benefits, or other benefits. The substitution of paid leave time for unpaid leave time does not extend the FMLA leave period. Also, the employee’s FMLA leave may run concurrently with other types of leave. If paid leave is substituted for unpaid FMLA leave, the Town will deduct the employee’s portion of the health plan premium as a regular payroll deduction. The employee is responsible for notifying the Financial Officer, in writing, as to the order in which their leave shall be used.

During an approved FMLA leave, the Town will maintain the employee’s health benefits under the same terms and conditions applicable to employees not on leave.

If an employee’s leave is unpaid, or is paid through workers’ compensation, short-term disability benefits, or other benefits not provided through the Town’s payroll system, the employee must pay his or her portion of the premium by making arrangements with the Town’s Financial Officer. Health and other benefit coverage may be canceled if the employee’s premium payment is more than (thirty) 30 days late.

If an employee elects not to return to work at the end of the leave, the employee will be required to reimburse the Town for the cost of all premiums paid by the Town for maintaining coverage during the unpaid leave, unless the employee cannot return to work because of a serious health condition or because of other circumstances beyond the employee's control. If the FMLA leave is for a condition that is covered under the Town's short or long term disability insurance, covered employees may apply for benefit coverage.

Benefit entitlements based on length of service will be preserved at the level earned as of the commencement of the leave, but will not accrue further during the leave period. For example, an employee on unpaid leave will not accrue additional sick or annual leave or personal days.

Requesting Leave: Employees must complete the appropriate FMLA leave request forms. These forms are available from the Financial Officer.

If an employee's need for leave is foreseeable, such as for the birth of a child or planned medical treatment, you must give your Department Head and the Board of Selectmen or their designee (thirty) 30 days' prior written notice. In cases of planned medical treatment, please make efforts to schedule the treatment to avoid disrupting the Town's operations.

If the need for leave is not foreseeable, the employee must give notice to the Board of Selectmen or their designee as soon as practicable (generally, either the same day or the next business day of learning the employee's need for leave) and the employee must comply with all of the Town's policies regarding absences from work. Failure to provide such notice may be grounds for delaying the leave. If the employee is unable to notify the Town of their need for leave personally because of illness, the employee should ask someone else to call on their behalf.

Medical Certifications: If an employee is requesting leave because of the employee's serious health condition, a covered family member's serious health condition, or for the serious injury or illness of a covered service member, the employee must provide a medical certification from the appropriate health care provider. It is an employee's responsibility to provide a complete and sufficient certification. Please obtain a medical certification form from the Financial Officer for the health care provider to use. If possible, the employee should provide the medical certification before the leave begins. If that is not possible, the employee must provide the medical certification within 15 calendar days of requesting leave. If the employee does not provide the required medical certification within fifteen (15) days, the employee's leave may be delayed. If you do not provide the certification at all, the Town will not be able to determine whether you are

eligible for FMLA leave and your leave will be denied. The Town reserves the right to authenticate or clarify any medical certification if necessary.

In the case of an employee's own serious health condition, or that of a family member's serious health condition, the Town, at its expense, may require an examination by a second health care provider designated by the Town. If the second health care provider's opinion conflicts with the original medical certification, the Town, at its expense, may require a third health care provider agreed upon by the employee and the Town to conduct an examination and provide a final and binding opinion.

The Town may also require subsequent medical recertification. Failure to provide the requested recertification within fifteen (15) days may result in delay of further leave.

Certifications for a Qualifying Exigency: Employees who request a leave for a "qualifying exigency" arising from an immediate family member's call to active duty or impending call or order to active duty will be required to provide a copy of the family member's active duty orders or other documentation issued by the military indicating the member is on active duty or call to active duty status in support of a contingency operation. Other documentation certifying the exigency necessitating the leave may also be required.

Confirmation of Familial Relationship: Employees requesting a leave of absence based on a familial relationship may be required to provide reasonable documentation or statement of family relationship. This documentation may take many forms, including but not limited to a child's birth certificate, a court document, etc.

Reporting While On Leave: If an employee takes more than 30 days of leave because of his or her own serious health condition, to care for a covered family member with a serious health condition, to care for a covered service member with a serious illness or injury, or for a qualifying exigency, the employee must contact the Financial Officer on the first (1st) of each month (or the next workday) to provide updates about the status of the need for leave (e.g. the medical condition of the employee or the individual for whom the employee is caring, or other circumstances necessitating leave) and the employee's intention to return to work. In addition, the employee must give notice as soon as practicable (within two (2) business days, if feasible) if the dates of leave change or are extended or initially were unknown.

No Work While On Leave: The taking of another job (including self-employment) while on FMLA leave or any other authorized leave may lead to disciplinary action, up to and including discharge.

Returning To Work: At the end of an authorized FMLA leave, the employee will be reinstated to his or her original position or an equivalent position. However, certain highly compensated employees or “key employees” may be denied restoration to their prior or equivalent position if keeping the job open for the employee would result in substantial economic injury to the Town. Key employees are those employees who are among the highest paid ten percent of employees within 75 miles of the worksite.

If an employee takes leave because of his or her own serious health condition, the employee will not be reinstated until the employee provides a fitness for duty certificate from his or her health care provider confirming that the employee is medically able to resume work and perform the essential functions of his or her job. The return-to-work medical certification forms are available from the Financial Officer. The Town reserves the right to clarify and authenticate such certification.

Coordination With Maternity Leave: As stated in our Maternity leave policy, (see below) the Town provides female employees with a leave of absence for the period of temporary physical disability resulting from pregnancy, childbirth, and related medical conditions. If an employee is also eligible for FMLA leave, the employee’s FMLA leave and Maternity Leave will run concurrently. Please refer to the Town’s Maternity Leave policy for more information regarding Maternity Leave.

For purposes of coordinating FMLA and maternity leaves, maternity disability leave will be treated in the same manner as the FMLA leave of absence described in paragraph (4) above. Maternity disability leave begins when an employee is medically determined to be disabled and ends when medically determined to be able to return to work. If a maternity disability leave is for the number of available FMLA leave weeks or less, the employee may take additional FMLA leave pursuant to paragraph (1) or (2) after the end of the disability period, not to exceed the number of remaining available leave weeks and will be reinstated in accordance with this FMLA policy. If a maternity disability leave exceeds the number of available FMLA leave weeks, then reinstatement will be governed by the maternity leave policy.

Coordination With Other Town Policies; Reference To FMLA And Federal Regulations: In the event of any conflicts between this policy and other Town policies, the provisions of this policy will govern. The FMLA and the FMLA regulations issued by the U.S. Department of Labor contain many limitations and qualifications that are not stated in this policy. The Town reserves the right to apply the terms of the FMLA and the FMLA federal regulations.

Any questions relative to FMLA leaves, including eligibility requirements, should be directed to the Town Administrator.

Leave of Absence for Victims of Crime: The Town will grant an employee unpaid time off from work to attend court or other legal or investigative proceedings associated with the prosecution of a crime in which the employee was a victim. For purposes of this policy, a “victim” is any person who suffers direct or threatened physical, emotional, psychological, or financial harm as a result of the commission or attempted commission of a crime.

Employees may also qualify for leave under this policy if they are part of the immediate family of a homicide victim or part of the immediate family of a child under the age of 18 or an incompetent adult who is the victim of a crime.

An employee needing time off under this policy should notify their Department Head as far in advance as possible. The employee shall be asked to submit copies of the notices of each scheduled hearing, conference, or meeting that is provided to the employee by the court or agency involved in the prosecution of the crime. Employees must comply with any requests to submit these notices, and failure to do so may result in denial of the leave of absence. The Town will maintain any such notices or records in confidence, and will disclose them only on a need to know basis.

The employee will be notified as soon as practicable whether the leave request is granted or denied. Requests falling within the definitions of this policy will typically be granted unless the leave of absence would cause an undue hardship on the Town. An “undue hardship” for purposes of this policy means significant difficulty and expense. In determining whether an undue hardship may exist, we will consider the size of our operations, the employee’s position, and our need for the employee to be at work.

Leave taken under this policy is unpaid, although an employee may elect to use his or her accrued, unused annual or sick leave, compensatory time or personal days.

The Town will not discharge, threaten, or discriminate against an employee for taking leave under this policy, and employees taking leave under this policy will not lose any seniority during the leave of absence.

Maternity Leave: All female employees may take an unpaid leave of absence for the period of temporary physical disability resulting from pregnancy, childbirth or related medical conditions. A maternity leave begins when an employee is medically determined to be disabled and ends when she is medically able to return to work. Employees will be required to take FMLA leave, if they are eligible for such leave, concurrently with maternity leave, as described in our FMLA policy.

Employees must use their accrued annual, sick, compensatory and personal time before taking unpaid leave under this policy. Employees on maternity leave may also be eligible for short-term disability benefits.

Employees on maternity leave who are not eligible for FMLA leave or who have exhausted their FMLA available leave weeks will be allowed to continue to participate in our health insurance benefit for the calendar month during which the leave begins. When that calendar month expires, the employee may continue medical insurance coverage by making arrangements with the Financial Officer to pay the entire amount of the appropriate monthly premium in advance each month.

When the employee is physically able to return to work, her original job or a comparable position will be made available to her unless business necessity makes this impossible or unreasonable. An employee who cannot be returned to her original or a comparable position will remain eligible to apply for any available position within the Town.

Military Leave: Employees who voluntarily or involuntarily serve in the United States armed forces or National Guard (collectively referred to as “uniformed services”) will be provided with leaves of absence for such service or training in connection with such service in accordance with the federal Uniformed Services Employment and Reemployment Rights Act (“USERRA”).

Full time employees who are members of the organized military reserves or National Guard, and who are required to perform field duty, will be granted military leave in addition to annual leave, as may be required by the appropriate military command. The employee shall provide a copy of their active duty orders or other documentation issued by the military indicating that they are on active duty or have been called to active duty status in support of a contingency operation. For each such period of military service, the employee will be paid the difference between service pay and the employer’s regular compensation, for up to a maximum of 10 days per calendar year. If more than ten (10) days per year of military leave is required you may elect to take part of, or all of, your accrued annual leave, compensatory time and or personal days during your military leave of absence, but you are not required to do so.

Notice of Leave Request: An employee needing time away from work for service or training in the uniformed services should make their Department Head and the Town Administrator aware of the need for leave as soon as the employee receives the written or verbal orders. It is requested that notice should be provided at least 30 days before the leave begins where it is at all possible to do so. An employee’s request for leave may include reasonable time off to get personal business in order prior to commencing service in the

uniformed services. Reasonable time off will be decided by the Board of Selectmen, in consultation with the Department Head and Town Administrator, on a case by case basis.

Health Coverage: If a military leave lasts less than 31 days, the employee's health insurance will be continued and the employee will pay his or her regular contribution for the cost of health insurance. Payment for insurance with less than 31 days leave may be paid in advance or upon return through payroll deductions.

If a military leave lasts 31 days or more, then the employee's health insurance coverage will cease and the employee will be eligible to elect to continue his or her health insurance coverage at his or her own expense for up to 24 months, in accordance with USERRA. The cost for continuation coverage will be the full cost of the premium.

When the employee returns to work, he or she will be reinstated to the health insurance benefit with no waiting period, even if coverage terminated during the leave.

Pension: Upon reemployment the employee is treated as if there was no break in service for participating, vesting and accrual purposes. If applicable, the employee may elect to make up any missed contributions or elective deferrals, but is not required to do so.

Reinstatement: Employees wishing to be reinstated following military leave should promptly notify the Town Administrator of their desire to be reinstated. If the leave is for service of less than 31 days, then the employee should return to work on the first full regularly scheduled work day following completion of service, allowing for 24 hours of rest and time for safe transportation back from the service. If the service lasts 31 to 180 days, then the employee should notify the Town Administrator of the desire for reinstatement within 14 days of completing service. If the military leave lasts more than 180 days, then the employee should notify the Town Administrator of the desire for reinstatement within 90 days of completing service.

The Town will reinstate eligible employees promptly. Eligibility for reemployment will be determined with reference to USERRA and its implementing regulations. Employees seeking reinstatement may be asked to provide documentation of the timeliness of the reinstatement request, the total time spent in service, and or a statement that the reason for separation or dismissal from service is not disqualifying. Employees cannot waive their reemployment rights in advance of being released from uniformed service.

Disabled Service Members: If a returning employee was disabled or a disability was aggravated during uniformed service, the Town will make reasonable accommodations and efforts to help the employee become qualified to perform the duties of his or her reemployment position.

Statement Against Discrimination and Retaliation: The Town will not discriminate in hiring, employment, reemployment, or any benefits of employment against any individual because of that individual's service in the United States uniformed services. The Town will not tolerate any retaliation against any individual because of their service in the uniformed services or their engagement in any other activities protected under USERRA.

Questions regarding this policy should be directed to the Town Administrator.

Personal Leaves Of Absence: The department head may grant leave without pay to an employee for up to 5 working days per year, as long as scheduling accommodations allow for the absence. All requests for more than 5 days of leave without pay per year shall be submitted to the Board of Selectmen for approval.

Employees may be granted a leave of absence to attend to personal matters in cases in which the Town determines that an extended period of time away from the job was in the best interests of the employee and the Town. Employees generally are eligible to request extended leaves of absence if they have completed at least one (1) year of service, or as specified by law. It is normally only granted for compelling reasons and at the sole discretion of the Board of Selectmen to employees who have exhausted all of their available leave, including annual and sick leave in the case of a non-job related illness, compensatory time, personal, maternity leave and FMLA.

A personal leave of absence is usually granted in one (1) month increments up to a total of 12 months for any one request at the discretion of the Board of Selectmen after consultation with the Department Head and Town Administrator. Application must be made to the Board of Selectmen at least 14 days before the start of the leave unless extraordinary conditions exist. The employee shall be notified at least seven (7) days before the requested start date of the decision of the Board of Selectmen regarding the employee's application.

Employee benefits such as health insurance and retirement may be continued at the full expense of the employee for the period(s) specified by these rules and or federal or state law. Employees shall not be entitled to any other benefits while on a personal leave of absence.

If an employee wishes to return from a personal leave of absence earlier than anticipated they must notify their Department Head at least 15 calendar days prior to their return. If the leave was due to non-job related illness, the employee must provide a fitness for duty certificate from their Health Care Provider in order to return to work. Any and all restrictions shall be included in the certificate. The Board of Selectmen or designee shall notify the employee at least 5 calendar days prior to the requested return date if the employee will be allowed to return to work, to what department they shall return to, the job

they will return to, the schedule, any restrictions regarding the type of work performed, and any administrative or other details to be completed prior to the return to work.

An employee who accepts employment from another employer while on a personal leave of absence shall be deemed to have voluntarily severed the employer/employee relationship with the Town unless prior written approval had been received from the Board of Selectmen.

The Town will make reasonable efforts to reinstate employees returning from personal leaves to the same or similar job as held prior to the leave of absence, subject to our staffing needs and other requirements. Please understand that we cannot guarantee reinstatement from a personal leave of absence. If the Town is not able to reinstate an employee returning from leave, the employee's employment will be terminated, and the employee will remain eligible to apply for employment in the future. If an employee fails to return to work following the expiration of the leave, the employee will be considered to have voluntarily resigned from his or her employment with the Town.

Chapter 10: RETIREMENT AND OTHER BENEFITS

Retirement: Full time employees eligible for coverage under the New Hampshire Retirement System will receive the benefit of the Town's contribution required by that System.

Deferred Compensation: All employees of the Town of New Durham, regardless of the hours they may work, are eligible to participate in any one of three group deferred compensation policies offered through the Town. Participation in any of these programs is strictly voluntary and involved the employee's own money through a payroll deduction process.

Town employees may participate in the Public Employees Benefit Service Corporation (PEBSCO); the International City/County Management Association Retirement Corporation (ICMA-RC); or the State of New Hampshire Deferred Compensation Program administered by Aetna Financial Services.

Medical Insurance: The Town provides full-time employees with single, two, or multi- person coverage as appropriate to his/her family status, hospitalization and medical insurance on a group policy made available by the Town. Effective 2002 and 2008 the group coverage, type of medical insurance policy, and employee co-payments towards selected insurance policies shall be as determined by the Selectmen.

Town employees who work less than forty (40) hours per week are eligible to purchase, at their own expense, single, two-person or multi-person coverage, as appropriate to his/her family status, for hospitalization and medical insurance through the Town's group policy.

Upon separation in good standing from the employ of the Town, the employee may continue medical insurance coverage at their option and at their expense, in compliance with federal and state law.

Payment In Lieu of Insurance: Town employees frequently have choices for health insurance coverage. They may have the option to be covered by spouses' policy with their employers, or perhaps to cover dependents under someone else's policy. Town employees will be required to secure, as a benefit of their employment with the Town, a basic package of health insurance for themselves. Employees may avoid the minimum health insurance coverage and receive a cash payment in lieu of coverage provided by the Town provided they show satisfactory proof of coverage in a non-Town health insurance policy.

Employees having alternative non-Town health insurance coverage and electing

to forgo the Town insurance policy for which they are eligible may receive a cash payment as determined by the Board of Selectmen. This payment shall be paid weekly through the employee's pay check. This cash incentive must be considered as income and is subject to withholding of taxes.

Application for the payment in lieu of insurance shall be made to the Town Administrator on the form shown as Appendix E, and it must be renewed annual each December to continue the payments. Falsification of the application, or failure to notify the Town Administrator immediately when eligibility ceases, may make employees subject to disciplinary action up to and including termination.

Town employees who are eligible for health insurance coverage under any other policy for which the Town also pays the premiums (such as two Town employees married to each other) shall not "double dip". For example, a married couple employed by the Town each has the right to take a single person policy if they so choose, or one may decline health insurance while the other selects to take two-person or family coverage. In this case, the declining employee shall not be eligible for the cash incentive, as the Town will receive no cost savings.

Employees are prohibited from declining Town-provided health insurance for themselves or their dependents when no other health insurance coverage is in effect.

Dental Insurance: Currently, the Town provides, at no cost to full-time employees, either the full cost of single-person or two-person coverage in a dental insurance policy. The coverage and type of policy shall be as approved by the Selectmen, recommended by the Budget Committee, and subject to available funds as approved at the Annual Town Meeting.

Town employees eligible for dental insurance coverage through the Town's group policy are able to acquire coverage for their entire family. The employee is required to pay the difference in the monthly premium between the two-person or employee & children coverage and the family coverage.

Town employees who work less than forty (40) per week are eligible to purchase at their own expense single, two-person or multi-person coverage, as appropriate to his/her family status, for dental insurance through the Town's group policy.

Upon separation in good standing from the employ of the Town, the employee may continue dental insurance coverage at their option and at their expense, in compliance with federal and state law.

Workers Compensation: The Town of New Durham complies with the laws of the State of New Hampshire (RSA281-A) with regard to Workers' Compensation

insurance. Basic information regarding this coverage, including our carrier, is posted in each work area.

Specific questions regarding reporting injuries and benefit provisions should be directed to the employee's department head or the Town Administrator.

In the event that an employee is unable to work due to illness or disability under Workers Compensation Insurance, the affected employee's health/dental insurance co-payment to the Town shall cease until such time that the employee is fit to take up fulltime duties per written direction by the physician involved in the case.

Temporary Alternate Duty (TAD): Pursuant to RSA 281-A:23-b, the Town hereby adopts the following TAD program:

- i) The injured employee will obtain a Health Care Practitioner's statement or certificate and a copy of his or her current position description from the coordinator of the TAD program while reporting the injury. If the nature of the injury is such that emergency need for care precludes stopping to pick up these forms, the employee shall as soon as practically possible call the TAD coordinator to request that a certificate and position description be mailed to the treating Health Care Practitioner.
- ii) The employee will have the Health Care Practitioner complete the form based on the findings during the initial examination.
- iii) The employee will return the completed form to the TAD coordinator immediately after seeking medical care.
- iv) The TAD coordinator will work with the employee and the department head to facilitate a safe return to work program.
- v) The TAD coordinator or department head may contact the treating Health Care Practitioner if additional information is necessary.
- vi) After each subsequent office visit, the employee will bring updated information from the treating Health Care Practitioner to the TAD coordinator. A note will be sufficient in most cases.
- vii) Additional modifications will be made to the return to work program as required. The TAD coordinator will review the appropriateness of continuing the program or duty assignments.
- viii) Steps 4 through 7 may be repeated until such time as the employee is able to

return to his or her normal position or has been deemed to be permanently disabled.

- ix) Pending promulgation of regulations by the Department of Labor, the TAD program shall be for a minimum duration of twelve (12) weeks, or until the injured employee has received medical clearance to return to work, whichever occurs first.
- x) The TAD program will be coordinated through the Selectmen's Office.

Mandatory Return to Work: An employee on workers' compensation shall be entitled to return to his/her previous position unless the following event(s) occur:

- i) A medical determination by attending physician or finding by the NH Commissioner of Labor that employee cannot return to former position;
- ii) Employee accepts employment with another employer;
- iii) Eighteen (18) months have elapsed from date of injury.

Part-time, seasonal, volunteer and temporary employees hired to fill the position of any injured employee shall be exempt from the provisions of this section.

Wage Issues: Worker's Compensation will reimburse an employee an amount equal to 60% of an employee's average weekly wage within the limits prescribed by state statute. The 60% reimbursement shall be calculated after any wages earned under the Temporary Alternate Duty program have been deducted. An injured employee may request that the Town issue a payroll check in the amount of the employee's normal base pay. The employee shall immediately forfeit his/her workers' compensation check to the Town, and the Town will deduct the balance of the remuneration (after workers' compensation reimbursement and TAD earnings) from the employee's sick or accumulated leave.

Unemployment Compensation: The Town complies with the laws of the State of New Hampshire (RSA 282-A) with regard to unemployment compensation coverage for employees. Particular information may be available from the New Hampshire Department of Employment Security (NHDES) local office for this area.

Disability Insurance: Currently, the Town provides at no cost to full-time employees and to previously grandfathered positions short-term disability insurance according to the provisions of the carrier policy. The coverage and type of policy shall be as approved by the Selectmen, recommended by the Budget Committee, and subject to available funds as approved at the Annual Town Meeting.

Section 125 Manual: The Town shall provide employees with the ability to handle their

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medical and dental insurance co-payment amounts through a payroll deduction, Section 125 process. This will enable the employee to utilize pre-tax dollars for their insurance premium expenses and, as a result, provide a payroll tax savings to both the employee and the employer.

Chapter 11: COMPLAINT PROCEDURE

It shall be the policy of the Town that any complaint shall be settled at the lowest possible level. This policy shall not be construed to, in any way, restrict the rights of employees under these personnel rules.

The complaint procedure is as follows:

Step #1: The employee shall verbally bring the complaint to the attention of his/her immediate department head within two (2) work days of knowledge of the event causing the complaint. The immediate department head shall verbally respond within two (2) work days of hearing the complaint.

Step #2: If unsatisfied with the response at the first step, the employee shall submit the complaint in writing to the immediate department head. Submission of the complaint to the immediate department head shall be within three (3) work days of the department head's original decision. The department head shall respond within three (3) work days to this second request.

Step #3: If unsatisfied with the response at the second step, the employee shall submit the complaint in writing to the Town Administrator. Submission of the complaint to the Town Administrator shall be within five (5) work days of the immediate department head's written decision. The Town Administrator shall hold a hearing on the complaint and shall render a written decision within ten (10) days of receiving the complaint.

Step #4: If not satisfied with the decision of the Town Administrator, the employee shall submit the complaint in writing to the Board of Selectmen within five (5) work days of receipt of the Town Administrator's decision. The Board of Selectmen shall conduct a hearing on the matter and render a written decision within fifteen (15) days of receipt of the complaint. The decision of the Board of Selectmen will be final.

Chapter 12 DISCIPLINARY PROCEDURES

It is the Town's policy to place as few restraints on personal conduct as possible. We are justifiably proud of our employees and the manner in which they conduct themselves. We rely on individual good judgment and sense of responsibility. Each employee is expected to conduct him or herself in an appropriate manner. However, for the protection of its property, business interests, or other employees, the Town has established certain rules of conduct. Violations of any rule cannot be ignored.

These rules are published for your information and to minimize the likelihood of any employee, through misunderstanding or otherwise, becoming subject to any disciplinary action. It is only fair that you should be familiar with those rules the Town considers to be of importance. It is also fair that you be appraised of the procedures to be used should any disciplinary action be required. The employer believes in using a process that is fair to all, yet maintains employee responsibility.

For these reasons, the employer uses a counseling model for handling disciplinary/performance issues. This model is designed to bring deficiencies to the attention of the employee in as non-confrontational manner as possible. After a verbal warning, a supervisor will meet with the offending employee and review the incident or incidents that lead up to the meeting. The supervisor will remind the employee of his/her role in the Town and attempt to set reasonable and measurable goals for the employee, to enable that employee to improve their performance. Should performance not improve, the supervisor moves on to the next step, which may include suspension, probation or termination as the situation may warrant.

However, there are times when this model is not appropriate, as noted below. Violations, to include but not be limited to the following rules, will be considered adequate justification for immediate termination of an employee:

1. Possessing, carrying or being under the influence of intoxicating beverages or narcotics on Town Property.
2. Stealing or attempting to steal property from any individual on Town property, or stealing or attempting to steal property from the Town.
3. Provoked or unprovoked bodily assault upon any person, or fighting on Town property.
4. Immoral or indecent conduct on Town property.
5. Unauthorized possession of firearms or any dangerous weapons, including explosives, on Town property.
6. Threatening, coercing, intimidating or interfering with other employees.
7. Insubordination to a supervisors, refusal to perform assignments, or directing abusive or threatening language at any supervisor, employee or official.

8. Disclosing confidential information to unauthorized persons.
9. Falsification of employment application(s), time cards, work reports or other employer record.
10. Willful entering of data on another employee's time card or permitting another employee to enter data on your time record; or tampering with time cards, clocks or records, or failure to maintain accurate time records.
11. Fraud committed by knowingly accepting pay for operations not performed on time or time not worked.
12. Acts of sabotage, or other interference with employer projects.
13. Defacing Town property.
14. Conviction of a felony.
15. Sleeping during work hours.
16. Accepting or soliciting any gift, gratuity, favor, loan or other item or consideration of monetary value from any person who has or is seeking to transact with the employer, or from any person within or outside the employer's employment whose interest may be affected by the employee's performance or nonperformance of official duty.
17. Absence of three (3) consecutive working days without notification.
18. Inciting other employees to illegal action.
19. Participating in an unauthorized job action.
20. Unsafe or negligent operation of equipment or destruction of employer property or material or the property of another employee.

Disciplinary action will normally be taken in the following order:

- (a) Verbal Warning
- (b) Written Warning
- (c) Suspension without pay
- (d) Probation
- (e) Discharge

However, the above sequence need not be followed if an infraction is sufficiently severe to merit immediate suspension, probation or discharge. Additionally, the Town reserves the right to take disciplinary action in a manner consistent with the efficiency of operations and appropriate to the infraction involved.

Chapter 13: SEPARATION FROM EMPLOYMENT

Termination

- A. **Misconduct:** An employee may be terminated from employment with the Town for misconduct in connection with his or her work for the Town as provided in Chapter 12 – Disciplinary Procedures. Employees may be terminated for misconduct may forfeit severance benefits, as they will not have separated in good standing.

- B. **Without Fault:** An employee may be terminated through no fault of his or her own when it is determined that the employee is unsuited for or incapable of performing the work assigned.

Resignation

Voluntary separation occurs when the separation is initiated by the employee by:

- A. A written or oral resignation;
- B. Failure to appear or call for three (3) consecutive work days;
- C. Failure to return from an approved leave of absence;
- D. Failure to report to work upon recall from a layoff or reduction-in-force; or
- E. Retirement

Layoffs / Reductions-in-Force

The Board of Selectmen may lay off an employee in the service of the Town by reason of shortage of work and/or funds, abolition of the position(s), other material changes in the organization, or for other reasons beyond the employee's control and which do not reflect discredit upon the employee. No employee shall be laid off while another person in the same class of position is employed in a department on a temporary or probationary basis. Layoff of employees shall be made in inverse order of employment in the class and department involved. The Board of Selectmen will endeavor to provide affected employees with at least ten (10) working days' notice.

Recall

Recall from layoff will be made of all qualified regular employees for up to one year from the date of the layoff before employment of others. Persons who are laid off in good standing shall, provided that their qualifications are equal to the qualifications of other applicants, be given preference for re-employment.

Chapter 14: SAFETY AND HEALTH

Safety Programs

Providing safe working condition and maintaining continuity of employment is of continual concern. The Town will not knowingly permit unsafe conditions to exist, nor will it permit employees to indulge in unsafe acts. Violations of Town safety rules and regulations will result in disciplinary action.

Department heads and supervisors shall be responsible for incorporating safety and good housekeeping into day-to-day activities of their departments, including the taking of corrective and preventive action on problems within their departments.

Employees are encouraged to make recommendations, suggestions and reports of unsafe conditions to their immediate supervisor so that they may be reviewed and corrected.

Accident Reports

It is mandatory that an employee reports an injury, however slight, to the supervisor or department head as soon as possible. The supervisor or department head will complete the required reports and forward them to the Town Administrator immediately. Any delay in reporting a work-related injury may lead to disciplinary action up to and including discharge.

Smoking

Because of the overwhelming evidence that smoking is dangerous and injurious to a person's health, the Town has prohibited smoking in the workplace and Town vehicles, except in specifically designated areas, to be in compliance with the Indoor Smoking Act (RSA 155:64-77)

Drug & Alcohol Abuse

Employees of the Town should not possess, use or sell illegal drugs or alcoholic beverages while on Employer time or business. Possession shall include, but not be limited to, concealment or storage in a locker, bag, automobile, desk or other place accessible to the employee during working hours.

Employees should not report to work or attempt to report to work while under the influence of non-prescribed drugs or alcoholic beverages.

Employees should not report to work or attempt to work while suffering from the effects of exceeding the prescribed or directed usage or otherwise abusing prescription or over-the-counter drugs or medications.

Failure to comply with these rules shall lead to disciplinary action that may include, but not be limited to, suspension, demotion or discharge.

Physical Examinations

To insure that employees remain healthy and able to work, the Town may require that certain personnel undergo a physical examination at the Town's expense by a provider of the Town's choice. Employees should refer to individual department policies regarding designation and scheduling.

Motor Vehicle License, Violations & Convictions

All employees required to possess a valid driver's license or other certificate to perform the essential functions of their job as stated in the job description or mandated by a state or federal regulation, shall immediately notify the Town if said license or certificate is revoked or expired. The Town may require attainment of a license or certificate as a condition of employment. No employee shall operate a Town vehicle without a valid driver's license. Employees who fail to comply with the provisions of this Section may face immediate discharge, even for a first offense.

All employees required to possess a valid driver's license shall furnish the Town Administrator with written and official documentation within seventy-two (72) hours in the event they are convicted or plead "nolo contendere" to a motor vehicle moving violation. Said documentation shall become a permanent part of the employee's personnel file and repeated offenses may lead to disciplinary action that may include, but not be limited to, suspension, demotion or discharge.

All employees required to possess a valid driver's license to perform the essential functions of their job shall advise their Department Head within forty-eight (48) hours of any summons or charge of a motor vehicle moving violation or felony that has been lodged against them.

All employees shall furnish the Town Administrator with written and official documentation within seventy-two (72) hours in the event they are convicted or plead "nolo contendere" to a felony. Said documentation shall become a permanent part of that employee's personnel file and may result in discharge.

Chapter 15: UNIT OPERATING RULES

Each separate and identifiable department of the Town may develop, implement, and revise as necessary such policies, procedures, and rules pertaining to unique operational requirements and their effect upon employees as are needed for efficient performance of the department. Such policies, procedures, and rules should not conflict with these policies and procedures, or amendments thereto, and must therefore be approved by the Board of Selectmen prior to implementation. Where conflicts arise, the policies and procedures outlined in this manual will prevail.

Chapter 16: MISCELLANEOUS

Chain of Command

It is expected and required that all employees will follow the levels of authority, sometimes referred to as the chain of command, in reporting grievances, problems, violations of laws, policies and procedures, etc. This line of reporting is spelled out in the Complaint Procedure (Chapter 11).

The only exception to this policy will be for reports of sexual harassment (Chapter 4). However, no retaliatory action shall be taken against any employee who reports violations of federal and/or state laws to regulatory authority pursuant to the provisions of the state “Whistle Blowers Law” (RSA 275-E).

Ethics

Employment with the Town carries with it a responsibility to be constantly aware of the importance of ethical conduct. Employees must refrain from taking part in, or exerting influence in, any transaction in which their own interests may conflict with the best interests of the Town. Each employee is individually responsible for adhering to the Ethics Policy approved December 29, 2011 by the Ethics Policy Revision Committee. See Appendix F.

The Town recognizes and respects the individual employee’s right to engage in activities outside of his or her employment which are private in nature and do not in any way conflict with or reflect poorly on the Town. Management does reserve the right, however, to determine when an employee’s activity represents a conflict with the Town’s interests and to take whatever action is necessary to resolve the situation including, but not limited to, suspension, demotion and termination.

The list below includes, but is not limited, to types of activity that would reflect negatively on the employee’s personal integrity or that would limit his or her ability to discharge their job duties and responsibilities in an ethical manner:

- A) Simultaneous employment by another firm that is a supplier to or contractor with the Town.
- B) Conducting business with a firm in which the employee, or a close immediate family of the employee, has a substantial ownership or interest.
- C) Hold a substantial interest in, or participating in the management of a firm from which the Town makes purchases.
- D) Borrowing money from individuals or vendors, other than recognized loan institutions, from which the Town buys services, materials, equipment or supplies.
- E) Accepting gifts or entertainment from an outside organization, business, contractor or vendor for which the Town does business.

- F) Speculating or dealing in materials, equipment, supplies, services or property purchased by the Town.
- G) Participating in civic or professional organization activities in a manner whereby confidential information is divulged.
- H) Misusing privileged information or revealing confidential data to outsiders.
- I) Using one's position in the Town or knowledge of its affairs for outside personal gains.
- J) Engaging in practices and procedures that violate federal, state or local laws, ordinances or rules.

Access to Personnel Records

In conformity with NH RSA 275:56, employees shall have a reasonable opportunity to inspect their personnel files and, upon request, to obtain a copy of all or part of the file. The Employer reserves the right to charge a reasonable fee for the costs associated for all copies made at the employee's request.

If an employee disagrees with any information in the personnel file, and the Town refuses to remove or correct such information, the employee may submit a written statement explaining the disagreement together with evidence supporting the employee's version. Such statement shall be maintained as part of the employee's personnel file and shall be included in any transmittal of the file to a third party and shall be included in any disclosure of the contested information made to a third party.

It shall be the policy of the Town that an employee's personnel file may only be viewed by the employee and the appropriate management authority (ies) of the Town. The employee retains the right to allow a third party to view or have copies of his or her personnel file through the submission of specific, written authorization to the Town to do so.

The Town Administrator shall be responsible for the maintenance of the Town's personnel files. The Administrator may delegate performance of this task to appropriate department heads, but the Town's personnel files shall be centrally maintained and the responsibility of the Town Administrator.

Residency

Certain employees of the Town may be required to maintain a residence within a certain radius of their work place. These personnel are generally considered necessary to handle emergency situations and, therefore, must be able to respond in a timely manner. The job description and work rules of a department will designate these personnel and the expected response time. This requirement will be clearly articulated during the job search to fill vacancies in these positions.

Chapter 17: USE OF THE INTERNET AND E-MAIL COMMUNICATIONS

Access to information, ability to conduct business from your desk and the almost instant communications are seen to be an enhancement to doing one's job. The Town recognizes this technology can be of benefit in the conduct of the public's business. However, it also recognizes the potential for its misuse.

In order to inform and protect both the employees and supervisors, it shall be the policy of the Town that use of the Internet and e-mail communications while on the job shall be restricted to business use only.

As part of this policy:

- A) The employer reserves the right to monitor, access, change, delete, review or retrieve any and all information stored or transmitted on the computer systems within its operations, including information which may have been deleted, but still exists on such systems.
- B) The employer does not guarantee the privacy or security of any item stored or transmitted on the computer systems, and the employee should not have any expectation of privacy with respect to any information transmitted or stored on the computer system. The computer systems are provided for business purposes, and employees should not use the systems for personal use and/or for any offensive or unlawful purpose.
- C) All computer and electronic equipment, including hardware, software and portable personal computers, are the property of the employer.
- D) Upon separation of employment, an employee is required to deliver to the employer all passwords to access documents, diskettes, computer, electronic or voice messaging systems.
- E) Employees who utilize various software programs licensed to the Town of New Durham which require security passwords in order to activate the program, or who shall have access to the Internet and/or e-mail service as part of their employment with the Town shall be required to sign a document with the Town which acknowledges the privileged use of these systems and which documents the individual's various passwords to these programs in event of a serious illness or death of an employee. This document shall be maintained as part of the employee's personnel file and may be accessed by the Town Administrator as appropriate.

Chapter 18: SEPARABILITY

If any Chapter or Section of these rules should be held to be invalid by competent authority, the remainder shall not be affected thereby.

Chapter 19: SUPERSESION

These rules and regulations shall take effect January 9, 2012 upon the vote of the Board of Selectmen, and shall supersede all previous rules, regulations, customs and/or past practices that may be in use on the effective date, unless specific exceptions are made by the Board of Selectmen or within these rules and regulations themselves. Any exceptions shall be noted in the action of the Board of Selectmen to adopt amendments, additions or deletions to these rules.

If there is any conflict between these rules and any federal or state law or negotiated agreement, then these rules shall not apply to those specific areas covered by such law, contract or agreement.

Chapter 20: AMENDMENT PROCEDURE

These rules may be amended and changed from time to time as conditions require and as deemed appropriate by the Board of Selectmen.

Any proposed amendments shall be presented to the Board of Selectmen for action. However, all amendments must be reviewed at least once as a public meeting and shall not be rejected or adopted until at least fourteen (14) days after the public meeting. If any proposed amendment is amended, there shall be at least one public meeting held prior to the adoption of the amended version of the rule(s).

APPROVED & DATED: December 16, 2013

NEW DURHAM BOARD OF SELECTMEN

APPENDIX A –LISTING OF POSITIONS

Full-Time Employee:

Deputy Town Clerk/Tax Collector
Financial Officer/Benefits Administrator
Heavy Equipment Operator
Highway Supervisor/Heavy Equipment Operator
Land Use Administrative Assistant
Library Director
Light Equipment Operator/Truck Driver
Light Equipment Operator/Truck Driver/Mechanic
Light Equipment Operator/Truck Driver/Grounds and Facilities Maintainer
Office Manager – Highway Department/Fleet Maintenance Manager/Solid Waste Facility Foreman
Police Chief
Police Department Administrative Assistant
Police Corporal/Detective
Police Sergeant
Police Officers
Road Agent
Solid Waste Foreman
Town Administrator
Town Clerk/Tax Collector

Part-Time Employee:

Assistant Librarian/Children's Librarian
Building Inspector/Code Enforcement Officer
Custodian
Deputy Building Inspector/Code Enforcement Officer/Health Officer
Library Aide
Officer Manager – Highway, Solid Waste, Equipment Mechanic
Police Officers
Recreation Director
Recreation Bus Driver
Recreation Staff
Solid Waste Operator
Town Assessor
Welfare Official/Assistant Assessing Clerk

Part-Time Employee/Call Personnel:

Fire Chief
Fire Warden
Deputy Fire Chief
Deputy Fire Warden
Captain
Lieutenant

Private

Contract Positions:

Town Administrator

Town Forester

Cleaning Services

Parks & Recreation Revolving Fund Employees

Creative Kids Club Bus Driver

Creative Kids Club Director

Creative Kids Club Assistants

Seasonal Employee

Beach Attendant

Plow Driver

Solid Waste Operator

Swim Instructor

Stipend Employees:

Town Hall Custodian

Town Hall Clock Winder

Appointed or Elected Positions Receiving Stipends:

Deputy Treasurer

Election Workers

Emergency Management Director

Health Officer

Moderator

Selectman

Supervisor of the Check List

Treasurer

**APPENDIX B
TOWN OF NEW DURHAM
EMPLOYEE HIRING POLICY**

The Board of Selectmen (BOS) is the hiring authority for all Town positions except the following:

- Library Trustees for all positions under the Library Trustee’s authority. (See RSA 202-A:11 V)
 - The Parks and Recreation Commissioners for all positions funded 100% from the Parks and Recreation Revolving Fund. (See RSA 35-B).
 - The Fire Chief for all Fire Fighters in the Fire Department. (See Minutes of the Town Meeting of 2008 Warrant Article # 23)
1. The Department Head meets with the Board of Selectmen (BOS) to request permission to fill a position.
 - The Board of Selectmen shall determine whether the position will be filled with a promotion, transfer or new hire.
 - The Board of Selectmen, in consultation with the Department Head, shall set the salary range for the position.
 - With the approval of the Board of Selectmen the Town Clerk shall appoint the Deputy Town Clerk’s position (See RSA 41:18)
 - With the approval of the Board of Selectmen the Tax Collector shall appoint the Deputy Tax Collector. (See RSA 41:38).
 2. The opening is posted internally and externally concurrently with applications accepted for a maximum of 10 business days.
 - The Department Head may request that the BOS accept applications for a longer period of time.
 - Possible locations of advertisements include but are not limited to newspapers such as “Foster’s Daily Democrat,” “The Baysider,” “Concord Monitor,” and web sites such as the Town of New Durham web site and the New Hampshire Municipal Association web site.
 - All qualified employees that apply for the position shall be interviewed.
 3. The applicant shall submit a completed application, with supporting documentation (ex. documentation of required education, resume, etc.) to the Office of the Board of Selectmen. (See Appendix A) The Board of Selectmen shall forward the applications and/or resumes to the appropriate Department Head for review.
 - Applicants for Police Officer will submit a resume in addition to the application.
 4. The Department Head or designee shall see that the following occurs:
 - Oral interviews by at least the Department Head, one member of the Board of Selectmen and the Town Administrator.

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- Additional interviewers may be added as determined by the Board of Selectmen and or Department Head.
 - The Chair or their designee of the Planning Board, Zoning Board of Adjustment and Conservation Commission shall be invited to participate in the oral interviews for Land use Staff.
5. At least 3 days prior to the meeting at which the Oral Board is to present their recommendation to the Board of Selectmen, the file of the applicant(s) shall be placed in the Office of the Selectmen for their review. The Oral Board will present their recommendations to the Board of Selectmen. The Board of Selectmen may wish to further interview the candidates.
 6. Once the Selectmen choose a candidate for the position and set the rate of pay, the Town Administrator shall send the applicant a written “Conditional Offer of Probationary Employment” letter. (See example - Appendix B) The candidate must successfully complete the following conditions:
 - Reference checks for the selected applicant (See Appendix C.)
 - Results shall be included in “new hire” documentation.
 - Background check for all applicants.
 - A physical examination for all applicants at the Town’s expense. Potential employees of the Fire, Highway, Police Department and the Transfer Station shall also be offered the option of the Hepatitis B vaccination at the Town’s expense.
 - An in house financial background check for any individual that will be handling money and all police officers.
 - A personal history packet for applicants for Police Officer
 - All requirements specified by NH Police Standards and Training for Police Officers.
 - Criminal History check if the applicant is age 17 or older
 - New Hampshire Motor Vehicle records check and record check of any other state in which the applicant has been a resident in the past 5 year, if the applicant holds a New Hampshire or other State driver’s license.
 - Vetting Process
 7. All applicants will have a 2 week vetting process in accordance with the Town of New Durham Board of Selectmen Appointment Policy effective September 17, 2007, which will commence when the applicant’s name is publically presented at a Board of Selectmen meeting in step #5 or 6, unless the Board of Selectmen, at a public meeting, waives the vetting process.
 8. The Department Head returns to the Board of Selectmen for final approval to hire.
 9. The Town Administrator signs the Offer of Probationary Employment letter and sends it to the applicant. (See example – Appendix D) Also included is the Second Injury Fund Employee Information for the applicant to complete and to return along with signed Offer of Probationary Employment. (See Appendix E)
 10. At a minimum the new Employee completes the:
 - Emergency Contact Form (Appendix F)

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- W4 – Federal Withholding
 - I 9 - Employee Eligibility Verification
 - Documentation of acceptance/rejection of Hepatitis B vaccination series if they are to be employed by the Fire Department, Highway Department, Police Department or Solid Waste/Transfer Station. (See Appendix G if not provided by current Medical Center).–
 - New Hampshire Youth Employment Certificate if under the age of 16.
 - State of New Hampshire Proof of Permission For the Employment of a Youth Aged 16 or 17
11. The Department Head completes the “Personnel Action Form” (PAF) with a starting date of employment and starting wage. The PAF must be signed by the Department Head and Employee before submission to the BOS. The starting date must be after the Department Head, new employee and Selectmen representative have signed the PAF. (See Appendix H)
12. The PAF and all required documentation must be received by the Financial Officer prior to the first day of employment for all employees.

David Swenson, Chair

Theresa Jarvis

David Bickford

Initially Approved 8/24/11
Revised Effective 7/16/12
Revised Effective 10/15/12
Revised Effective 8/18/14

TOWN OF NEW DURHAM EMPLOYEE HIRING POLICY

The following are available from the Town Administrator, Financial Officer or on the Town's Web Site

Appendix A Application for Employment

Appendix B Offer of Conditional Employment

Appendix C Reference Checks

Appendix D Offer of Probationary Employment

Appendix E Second Injury Fund Employee Information Form

Appendix F Emergency Notification Information

Appendix G Refusal of Hepatitis Vaccination

Appendix H Personnel Action Form (PAF)

APPENDIX C – PROMOTIONAL POLICY

EMPLOYEE PROMOTIONAL and TRANSFER POLICY

1. The Department Head meets with the Board of Selectmen (BOS) to request permission to fill a position through promotion or transfer of a current employee.
 - The Board of Selectmen, in consultation with the Department Head, shall set the salary range for the position.
 - With the approval of the Board of Selectmen the Town Clerk shall appoint the Deputy Town Clerk. (See RSA 41:18)
 - With the approval of the Board of Selectmen the Town Clerk shall appoint the Deputy Tax Collector. (See RSA 41:38).
2. The opening is posted in all Town departments for 5 business days.
3. The applicant shall submit a completed application or resume, including any required documentation to the Office of the Board of Selectmen.
4. The Department Head or designee shall convene an interview panel consisting of at least the Department Head, one member of the Board of Selectmen and the Town Administrator.
5. At least 3 days prior to the meeting at which the Oral Board is to present their recommendation to the Board of Selectmen, the file of the applicant(s) shall be placed in the Office of the Selectmen for their review. The Board of Selectmen may wish to further interview the candidates.
6. Once the Selectmen choose a candidate for the position, and set the rate of pay, the Town Administrator shall send the applicant a written “Conditional Offer of Probationary Employment” letter. If not previously completed the candidate must successfully complete the following conditions:
 - Criminal History check;
 - New Hampshire Motor Vehicle records check;
 - Physical examination for all promotions/transfers to the Fire, Highway, Police Department and the Transfer Station;
 - Hepatitis B vaccination;
 - In house financial background check for any individual that will be handling money and all police officers;
 - All requirements specified by NH Police Standards and Training for Police Officers.
7. Steps 7 through 12 of the Hiring Policy, revised effective August 18, 2014, shall be followed after completion of the above steps.

Approved August 18, 2014

APPENDIX D

Reporting Procedure For Sexual And Other Unlawful Harassment, Discrimination And Retaliation

Any employee who feels that he or she has experienced sexual or other unlawful harassment and discrimination or retaliation should immediately report such actions. All reports must be made in accordance with the following procedure. All complaints will be promptly and appropriately investigated.

1. If you believe that you have experienced sexual or other unlawful harassment, discrimination or retaliation, you should report the incident immediately to the _____ or the _____.
2. Supervisors and managers who become aware of discriminatory or harassing conduct, a complaint of discrimination or harassment, or retaliation must report the conduct and/or complaint immediately to the _____ or the _____.
3. The Town will promptly investigate incidents reported through this procedure. Any employee, supervisor, or agent of the Town who has been found to have engaged in conduct that violates our policies against discrimination and/or harassment will be subject to appropriate remedial and/or disciplinary action, up to and including immediate discharge. The complainant will be informed generally of the outcome of the investigation and whether remedial action is being undertaken by the Town.
4. The Town will conduct all investigations in a discreet manner. Disclosure of complaints will be limited to those with a need to know in order to investigate the complaint and take appropriate remedial action.

Any employee who feels that he or she has experienced sexual or other unlawful harassment and discrimination or retaliation should immediately report such actions. All reports must be in accordance with the following procedure. All complaints will be promptly and appropriately investigated.

1. If you believe that you have experienced sexual or other unlawful harassment, discrimination or retaliation, you should report the incident immediately to the _____ or the _____.
2. Supervisors and managers who become aware of discriminatory or harassing conduct, a complaint of discrimination or harassment, or retaliation must report the conduct and/or complaint immediately to the _____ or the _____.
3. The Town will promptly investigate incidents reported through this procedure. Any employee, supervisor, or agent of the Town who has been found to have engaged in conduct that violates our policies against discrimination and/or harassment will be

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subject to appropriate remedial and/or disciplinary action, up to and including immediate discharge. The complainant will be informed generally of the outcome of the investigation and whether remedial action is being undertaken by the Town.

4. The Town of New Durham will conduct all investigations in a discreet manner. Disclosure of complaints will be limited to those with a need to know in order to investigate the complaint and take appropriate remedial action.

APPENDIX E – LIST of FLMA FORMS

(All forms are available from the Town's Financial Officer)

Request for Family Medical Leave Of Absence

Notice of Eligibility and Rights & Responsibilities under The Family And Medical Leave Act

Designation Notice under The Family And Medical Leave Act

Certification of Health Care Provider for Employee's Serious Health Condition

Certification of Health Care Provider for Family Member's Serious Health Condition

Certification of Qualifying Exigency for Military Family Leave

Certification for Serious Injury or Illness Of Covered Service member – For Military Family Leave

APPENDIX F - APPLICATION FOR PAYMENT IN LIEU OF INSURANCE

To: Town of New Durham

FROM:

SUBJECT: Application for Payment in Lieu of Insurance

DATE:

Under the provisions of Section 7.3 (a) of the Town of New Durham Personnel Manual, I hereby apply for payment in lieu of insurance effective_____.

Check one or both boxes below, as appropriate:

_____ I am declining health insurance coverage for myself, as I am receiving health insurance coverage from a source other than the Town of New Durham. Attached is a certificate of my insurance coverage.

_____ I am declining health insurance for the following named dependent (s) who is/are fully eligible to be covered by my health insurance policy, but is protected by insurance from a source other than the Town of New Durham. Attached is a certificate of this insurance coverage.

<u>Full Name</u>	<u>Relationship</u>	<u>Date of Birth (If under age 25)</u>
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I certify that the above statement is true, and I acknowledge that false statements on this form may subject me to disciplinary action. I have read the Town of New Durham's Payment in Lieu of Insurance Policy (Chapter 10 – Medical Insurance).

(Date)

(Signature of Employee)

APPENDIX G – Ethics Policy

TOWN OF NEW DURHAM

ETHICS POLICY

PURPOSE

The purpose of this code is to establish guidelines for the ethical behavior of the conduct for public servants.

- We expect our public servants and volunteers to act in the best interest of the town.
- We expect public servants to disclose any personal, financial, material or substantial interests in matters affecting the town which come before them for action, excluding trivial or transient interests which are the natural result of living in a small town.
- We expect public servants to remove themselves from decision making if they have a conflict of interest.
- We expect public servants to be independent, impartial, and responsible to their fellow townspeople in their actions.
- We expect that the town’s official decisions and policies be made through the proper channels of government.
- We expect that public servant positions in our town not be used for personal gain.

It is important that the public have confidence in the integrity of its government and that town public servants have an opportunity to protect their personal reputation.

- **A duty to disclose**
- **No unfair personal use of town property**
- **No misuse of confidential information**
- **No improper gifts**
- **Fair and equal treatment**
- **No investments that conflict with duties**
- **No nepotism**
- **No conflicts of interest**

This policy establishes a committee that will develop procedures by which one may obtain guidance and education regarding potential ethical issues. This committee hears inquiries and advises individuals. The Ethics Committee will provide non-binding responses to inquiries. All complaints will be handled by the Board of Selectmen.

SECTION I: DEFINITIONS

As used in this policy, the following terms shall have the meanings indicated:

Appearance: To someone without knowledge of relevant facts, a public servant's involvement in a matter seems to be in violation of the standards set forth in the Town's Ethic Policy.

Board: Any board, committee or commission, permanent or special, established in accordance with New Hampshire law.

Conflict of Interest: A situation, circumstance, or financial interest which has the potential to cause a private or personal interest to interfere with the proper exercise of a public duty, or which has rendered the individual incapable of being impartial; the situation, circumstance, or financial interest must be immediate, definite and capable of demonstration; not remote, uncertain, contingent, and speculative.

Electioneer: To act in any way specifically designed to influence the vote of a voter on any question or office.

Employee: A person who is paid by the Town of New Durham for his/her services, but who is not an independent contractor.

Immediate Family: A spouse, civil union partner, children, step children or foster child of the public servant, a person that the public servant is the legal guardian of or where the public servant or their spouse is a person standing "in loco parentis" of another, mother, father, grandparent or sibling of either the public servant or the public servant's spouse or relative living in the public servant's domicile or a person that the public servant is otherwise in an intimate relationship with and residing in the same household as the public servant.

Interest: Any legal or equitable right, share, or claim, whether or not subject to an encumbrance or a condition, which is owned or held, in whole or in part, jointly or severally, including but without limitation, a right, share or claim to land, excluding incidental or minimal rights, shares or claims.

Misuse: The incorrect or improper use or misapplication of information, position, authority, or influence, as well as town resources, property or time by a public servant.

Nepotism: Favoritism shown to an immediate family member by a public servant while in his/her official capacity.

Public Servant: All town officials, boards and employees of the Town of New Durham, whether elected, appointed, paid or unpaid.

Quasi-judicial Action: Any action where the board has a duty to notify the potential parties, hear the parties, and can only decide after weighing and considering such evidence and

arguments as the parties choose to lay before them.

Recuse: Completely removing or excusing oneself from participation as a public servant in a specific action or discussion due to a conflict of interest.

Resident: A person whose legal address is in the Town of New Durham.

Taxpayer: A person or business who is subject to taxation by the Town of New Durham.

Town: The Town of New Durham, including all of its public servants, residents and taxpayers.

SECTION II: PROVISIONS

A. Conflicts of Interest – Specific Provisions

- (i) Public servants shall avoid conflicts of interest.
- (ii) A public servant who wishes to appear on behalf of himself/herself or any party shall publicly disclose the nature and extent of that interest and disqualify him or herself before advising, deliberating, representing that someone and/or voting on the matter involved. The following conditions shall be met:
 - A written public disclosure of the member's conflict of interest or relationship with an explanation of the representation is provided to the board and included in the minutes.
 - The member, when representing himself/herself or any party, shall step down from the board after first publically declaring his/her reason for stepping down.
- (iii) A public servant shall recuse himself/herself in any matter in which he/she or an immediate family member, have a personal interest which may directly or indirectly affect or influence the performance of his/her duties.
- (iv) A public servant shall recuse himself/herself if engaged in any investment, business, transaction, or private employment or have any financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his/her duties.
- (v) No public servant shall use, or attempt to use, his/her position as a public servant to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant.

- (vi) No public servant shall coerce, by intimidation, threats, or otherwise, any other public servant to engage in political activities.
- (vii) No public servant shall request any subordinate public servant to participate in a political campaign. For the purposes of this provision, participation in a political campaign shall include managing or aiding in the management of a campaign, soliciting votes or canvassing voters for a particular candidate, or performing any similar acts which are unrelated to public servant's duties or responsibilities.
- (viii) No public servant shall electioneer while in the performance of his/her official duties or use town property, including, but not limited to, telephones, facsimile machines, vehicles, and computers, for electioneering, unless such use is available to residents and taxpayers on equal terms.
- (ix) No public servant shall receive compensation for performing any official duty except from the town or a grant preapproved by the Office of Selectmen.

B. A Duty to Recuse

Conflicts of interest apply to both quasi-judicial and legislative actions and may warrant the disqualification of a board member in deciding the matter. Ultimately the decision to recuse or not to recuse is up to the individual with the alleged conflict. Information gained through general knowledge as a citizen of the town, or solely as the result of the individual's service in an official capacity, does not disqualify the member unless it has biased the member to such a degree that he or she cannot be impartial. The type of decision (quasi-judicial vs. legislative), not the type of board, is the primary factor for possible disqualification.

- (i) A "quasi-judicial action" is any action where the board acts like a judge or jury to decide a matter affecting specific individuals. For example, members are involved in a quasi-judicial action when the board has a duty to notify the potential parties, hear the parties, and decide the matter only after considering and weighing such evidence and arguments as the parties choose to present. Not only do public servants of the Town of New Durham have a duty to recuse themselves as outlined in Section A, but they must also recuse themselves in a quasi-judicial action if they would not be qualified to sit as a juror in that case (RSA 673:14 and 46:6). Stricter standards of fairness tend to be applied by the courts in cases where a board is acting judicial and must demonstrate impartiality.
- (ii) A legislative action is administrative in nature and involves a matter affecting all citizens equally. For example, members are acting in a legislative capacity when they set goals, create policies, develop rules, and regulations, research and write amendments, and tend to other procedural matters. Here the need to recuse is more the exception than the rule.

C. A Duty to Disclose

A public servant should make every effort to disclose a possible appearance of a conflict of

interest. In any instance where there is a conflict of interest or there could be the appearance of a conflict of interest, a public servant shall disclose the circumstances prior to the time the matter arises for official consideration or discussion, stating all:

- investments or other private transactions
- interests
- relationships
- friendships
- possible conflicts

D. No Unfair Personal Use of Town Property

No public servant shall use town property, services, or labor personally, or make the same available to others unless such use is available to other residents and taxpayers upon request on equal terms.

E. No Misuse of Confidential Information

No public servant shall use any confidential information acquired by virtue of that individual's official position for personal benefit, or for the benefit of any other person or business. This does not apply to information which is readily available to the general public. In addition, no public servant shall violate the privacy of others by publicizing, gossiping, or discussing information confidentially acquired in the course of official duties without a legitimate reason to do so.

F. No Improper Gifts

No public servant shall accept a gift (or allow acceptance of such gift by an immediate family member) from any individual, group, or corporation which have or are planning to have a matter pending before the board on which the public servant serves. This provision of the code is not meant to apply to gifts traditionally exchanged between immediate family members, at holidays or birthdays, for example.

Exceptions

Any discounts provided to a whole class which has been appropriately authorized by the Board of Selectmen and three other exceptions:

- (i) Unsolicited advertising or promotional materials of nominal intrinsic value not to exceed a maximum of \$25.00, such as ball caps, tee shirts, pens, and calendars.
- (ii) Awards for meritorious civic service contributions.
- (iii) Unsolicited consumable items that are donated to an entire work group during holidays.

G. Fair and Equal Treatment

Acting in their official capacity, all public servants shall give each and every person fair and equal treatment. No public servant shall in the course of their official duties give or deny any person special consideration, advantage, or treatment as a result of the person's public status, position, sex, race, religion, creed, sexual orientation, or national origin.

H. No Nepotism

No public servant shall influence or attempt to influence the appointment, hiring, transfer, suspension, promotion, discharge, assignment, reward, discipline, direction of work, or the adjustment of grievances of an immediate family member. If a proposed appointee is a member of the immediate family of any board member, that member shall remove himself/herself completely from the process.

SECTION III: EXCLUSIONS

A. The provisions of this Code of Ethics shall not be interpreted so as to bar:

- (i) Any public servant who is a resident of the Town of New Durham from fully participating in any Town Meeting;
- (ii) Acceptance of donations for the expressed purpose of financing a political campaign, provided such contributions are reported in accordance with all local, state and federal laws which pertain to such donations;
- (iii) Participation in a matter which relates to a person or business from which a public servant has merely purchased goods or services, if the individual in question has no other conflict of interest relating to that person or business;
- (iv) Police officers, fire fighters, and other emergency personnel from acting in the course of their official capacities when responding to emergencies in accordance with the rules and regulations of their departments; and,
- (v) Supervisors of Town employees from appropriately carrying out personnel policies.

B. Nothing in this policy shall read to prevent a public servant from acting when, due to circumstances beyond the control of the parties, a failure to serve or act would result in the denial of the party's basic right of representation, right to be heard, or denial of some other important due process right, provided that this exception to the policy be as narrowly drawn as possible and last as short a time as possible.

SECTION IV: FORMATION of the ETHICS COMMITTEE

The Board of Selectmen shall appoint a committee of no more than 5 or less than 3 persons, with staggered 3 year terms, such committee will be named the Ethics Committee. A quorum of three or more committee members shall be necessary to hear any inquiry that is submitted.

Appointees shall be residents of the Town of New Durham. No Board of Selectmen or Department Head shall serve on the committee; one member may be a public servant.

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The Town of New Durham will establish an Ethics Committee to:

- Educate public servants regarding the provisions of the Ethics Policy guidelines.
- Provide advice and counsel regarding ethical issues.
- Submit Ethics Policy revisions to the Board of Selectmen.

SECTION V: INQUIRIES

Individuals who have questions about interpretation/application of the Ethics Policy may submit inquiries verbally or in writing to the Ethics Committee. After review of written inquiries and when requested, the Ethics Committee shall in writing reference how the policy relates to the inquiry. At the conclusion of the discussion of an inquiry, a written response will be issued within ninety (90) days.

The Ethics Committee will establish rules of procedures making every effort to protect reputations of all parties.

When submitting an inquiry, the individual certifies that he/she has read the New Durham Ethics Policy, and that the matter merits discussion. The Ethics Committee advises but does not judge the merit of an inquiry. It is the responsibility of the applicant to formalize and submit a complaint to the Board of Selectmen.

SECTION VI: COMPLAINTS

Complaints should be brought to the attention of the Board of Selectmen. Complaints involving town employees shall be handled in accordance with the procedures outlined in the New Durham Personnel Policy.

SECTION VII: EFFECTIVE DATE

This policy shall become effective thirty days (30) after its adoption by the Ethics Policy Revision Committee.

SECTION VIII: POLICY REVISIONS

Any changes to the Ethics Policy will be drafted by the Ethics Committee and submitted to the Board of Selectmen for approval.

Adopted by the Ethics Policy Revision Committee December 27, 2011

APPENDIX H
TOWN OF NEW DURHAM
ALCOHOL AND DRUG POLICY

The Town of New Durham is committed to providing a safe work environment that is free from the effects of drugs and alcohol.

Drug and alcohol use in the workplace can create health, safety, and security issues for our employees, citizens and visitors. The Town of New Durham is committed to providing a safe work environment that is free from the effects of drugs and alcohol. In support of our commitment, the Town of New Durham prohibits the following conduct and other conduct which, in our determination, is inconsistent with our commitment:

- The manufacture, distribution, sale, dispensation, possession, storage, or use of a controlled substance, unauthorized prescription drug, or drug paraphernalia at any time on the Town of New Durham premises, on the Town of New Durham business, or during working hours;
- The use, possession, storage, manufacture, distribution, dispensation, or sale of alcohol at any time while on the Town of New Durham premises, on the Town of New Durham business, or during work hours;
- Reporting to work or otherwise working under the influence of legal drugs that may impair your ability to safely perform your job functions or under the influence of illegal drugs or alcohol, or;
- Reporting to work in a condition that makes you unfit for work. In addition to being under the influence of drugs or alcohol, indications of a lack of fitness for duty are smelling of alcohol, appearing to be hung over, or otherwise appearing or being unable to effectively interact with citizens, visitors and co-workers and to work safely and properly without impairment;
- Failing to submit to a required fitness for duty exam.

The Town of New Durham also maintains the following reporting requirements:

- Any employee who is taking medication that may impair his or her ability to safely perform job functions must inform his or her supervisor immediately, and must not perform any work until authorized to do so by a licensed Health Care Practitioner;
- If any employee is involved in drug misconduct (including the use or possession of illegal drugs or unauthorized use of prescription drugs) on the Town of New Durham premises or while working for the Town of New Durham, the Town reserves the right to report the incident to law enforcement authorities;

- If any person observes an employee exhibiting behavior that may be indicative of impairment by drug or alcohol use, he or she should immediately report the behavior to their Supervisor.
- If any person observes an employee exhibiting behavior that may be indicative of impairment by drug or alcohol use but has reason to suspect that the behavior is due to a medical condition they shall contact 911 immediately.

Conditional Offer of Employment:

A conditional offer of employment from the Town of New Durham shall require the candidate to successfully complete an alcohol and drug test prior to beginning employment. These tests will be completed at the time of the candidate's employment physical at the expense of the Town.

Investigations and Searches:

When a Department Head or Supervisor determines that there is reasonable cause to suspect that an employee has violated this policy, the Town of New Durham reserves the right to inspect, without prior notice, lockers, work areas, desks, cabinets, purses, bags, briefcases, other belongings, and vehicles brought on the Town of New Durham premises or at locations where work-related activities are being conducted.

Violations of this Policy:

Employees must, as a condition of employment, abide by the terms of this policy. Violations of this policy will result in disciplinary action, up to and including termination, and may also have legal consequences.

Fitness for Duty Exams:

The Town of New Durham reserves the right to require any employee to submit to a fitness for duty exam when there is a reasonable basis for the Town of New Durham to believe that the employee may be under the influence of alcohol or drugs or may be otherwise unfit for duty. Fitness for duty exams may include, but not be limited to, tests for the presence of drugs or alcohol. Employees must consent to fitness for duty exams as a condition of employment. The cost of any such fitness for duty exams will be covered by the Town of New Durham. Within the Town of New Durham's discretion, an employee may be placed on paid or unpaid administrative leave or suspension pending the results of the drug/alcohol test.

Commercial Driver's License Testing:

Under the federal Omnibus Transportation Employee Testing Act of 1991, 49 U.S.C. 31301 et seq., people who operate commercial motor vehicles (those with a total gross vehicle weight of 26,001 pounds or more, or which carry 16 or more people, including the driver, or which are used to transport hazardous materials) are required to have a commercial driver's license (CDL). Federal regulations not only prohibit the operation of any commercial motor vehicle while using drugs or alcohol, but also require employers, including municipalities, to perform drug and alcohol testing of these employees in certain situations.

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These situations include:

- The first time a driver reports to work for the employer;
- Optional pre-employment testing after a conditional offer of employment is made if all prospective employees are tested in exactly the same manner,
- Post-accident testing;
- Testing upon reasonable suspicion of drug and/or alcohol use (based on specific, contemporaneous, articulable observations of the person's appearance, behavior, speech or body odors): and
- Return-to-duty testing after a violation. 49 C.F.R. Part 382, Subpart C.

In addition, CDL drivers are required to submit to random testing for drug and alcohol use. (See 49 C.F.R. §382.503(a)). The regulations provide detailed instructions for the selection of employees for testing, the frequency of testing and the manner in which tests are to be conducted. There is also an option for states to exempt certain drivers from the testing requirements and the CDL licensing requirements. (See 49 C.F.R. §103(d) and 49 C.F.R. §383.3(d).)

The state of New Hampshire has chosen to exempt fire service personnel driving emergency vehicles assigned or registered to a department or fire service organization in pursuit of fire service purposes. (See NH Admin. Rule Saf-C 1801.02(a) (1)). This means that the random testing otherwise applicable to CDL drivers does not apply to firefighters who operate emergency or fire service vehicles.

Approved November 3, 2014

APPENDIX I

PURCHASING POLICIES

SECTION I: PURPOSE

These policies, known collectively as the “purchasing policies” of the Town of New Durham, are adopted:

- (i) For the purpose of providing the best guarantees that tax money and public funds are spent in the most prudent fashion, as well as assuring the goods and services required by the departments of the Town are acquired in a timely manner and at the most economical price.
- (ii) This policy explicitly details the levels of authority granted to various governmental officials of the Town of New Durham as well as providing for direction as to the steps involved in the procurement of goods and services for the Town.

SECTION II: DEFINITION

“*Purchasing System*” means the process which authorizes a vendor to deliver goods or provide a service, and which assures that public funds for such goods or services will be encumbered for future payment. Any reference to a Department Head is also meant to include a Committee Chairperson.

SECTION III: AUTHORITY

These policies are adopted by the Board of Selectmen in accordance with RSA 31:39 as it relates to their management of the Town’s prudential affairs and their authority over expenditures.

SECTION IV: CONFLICT OF INTEREST

In accordance with RSA 95:1, no person holding a public office in the Town of New Durham , either appointed or elected, shall, by contract or otherwise, except by open competitive bidding, buy real estate, sell or buy goods or services, commodities, or other personal property of a value in excess of \$200 at any one sale to or from the Town of New Durham.

The above section shall also apply to all employees of the Town of New Durham.

It shall be unethical for any town employee involved in making procurement decisions to have personal investments in any business entity that will create a substantial conflict between their private interests and their public duties.

It shall be unethical for any person to offer, give, or agree to give any Town of New Durham employee or for any Town of New Durham employee to solicit, demand, accept or agree to accept from any vendor or business, a gift or gratuity in any amount in connection with any decision, approval, disapproval or recommendation concerning a solicitation. Inexpensive advertising items, bearing the name of a vendor such as pens, pencils, paperweights, cups, candy, calendars etc are not considered articles of value or gifts in relation to these policies.

SECTION V: OBJECTIVES

- ❑ To provide, wherever appropriate, for the centralized function of purchasing as established in these policies.
- ❑ To seek competitive quotations based on the dollar limits outlined in these policies.
- ❑ To, wherever possible, consider the use of State contracts for goods and services, as such contracts may provide savings to the Town.
- ❑ To provide for a procedure for the disposal of surplus property as outlined in these policies.

SECTION VI: PURCHASE ORDERS

All purchases in excess of \$1,500 shall require a purchase order signed by the Department Head and any other individual or groups as required by these policies.

- ❑ All purchases that are of a contractual nature or related to ongoing operational expenditures shall be assigned an annual blanket purchase order number. Vendors that fall under a blanket purchase order number shall use the specific number(s) on their invoices. The following ongoing obligations and/or purchases shall require an initial purchase order executed as referenced below:
 1. **VEHICLE FUEL**: Initial delivery after start of contract year, (all subsequent orders shall reference the initial [blanket] order).
 2. **CONTRACTS**: Contracts for consulting or maintenance services, solid waste disposal services and lease/rental agreements shall require an initial purchase order at the beginning of the contract period, covering the period of performance.
 3. **OTHER**: Ongoing product purchases expected to accumulate above the thresholds determined in Section VII.
- ❑ All non-contractual or non-reoccurring operational purchases shall require a purchase order number and the appropriate authorizing signatures in accordance with Section VII.
- ❑ The following obligations and/or purchases shall be exempt from purchase order requirements:
 1. **UTILITIES**: Including building heat (oil, gas, etc.), electricity and telephone expenses.
 2. **SERVICE/CONTRACTUAL AGREEMENTS**: Including ongoing equipment and software service agreements which have previously been approved through the budgeting process (with a list of such agreements maintained by the Finance Office); ongoing contracted employee agreements such as snowplowing (subject to an approved list at the beginning of each season); Planning & Development department contracted employees; and legal services.
 3. **HUMAN SERVICES Welfare**: Including payments made on behalf of employees as part of their job description/training and human service contributions/ payments.
- ❑ If there are purchases for which it is not clear whether a purchase order is required, the Department Head shall consult with the Town Administrator for a final determination.

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- ❑ **DISTRIBUTION:** One copy of the purchase order shall be given to the vendor, one to Finance Administration, and one maintained in the department files.

- ❑ **SCOPE OF INFORMATION:** The purchase order should, at a minimum, contain the following information:
 1. The quantity and quality of material or service required.
 2. Description of material or service required.
 3. Vendor's name and location.
 4. Reason for purchase.
 5. The unit costs.
 6. Any extra charges such as freight, insurance, etc.
 7. Total amount of purchase and related budget amount (blanket P.O.'s).
 8. Place and expected time of delivery.
 9. Date the order is prepared.
 10. Purchase order number.
 11. Budget account which to charge the purchase.

SECTION VII: PURCHASE LEVELS

- A) **PURCHASES UP TO \$ 1,500:** The Department Head shall have full authority to make departmental purchases of goods or services up to \$ which are identified within the department's annual budget.
- B) **PURCHASES BETWEEN \$1,501 AND \$3,000 :** The Town Administrator shall have full authority to approve departmental purchases of goods or services up to \$3,000 for those items which are identified in the Town's budget. The Department Head shall submit a purchase order to the Town Administrator for approval.
- C) **PURCHASES BETWEEN \$3,001 AND \$15,000:** For purchases between \$3,001 and \$15,000 , the Department Head shall contact as many vendors as necessary in order to obtain at least three (3) written or verbal quotations. The Department Head shall present these quotations to the Town Administrator, along with a recommendation, for the board of selectmen's approval. In the event less than three (3) quotations are available, evidence of the attempt to obtain them should be attached to the purchase order.
- D) **PURCHASES ABOVE \$15,001:** Purchases having an estimated cost in excess of \$15,001 shall be bid pursuant to the competitive procurement guidelines established in these policies under Section VIII-A or VIII-B.
- E) **MULTIPLE UNIT PURCHASES UNDER ONE PURCHASE ORDER:** For situations where multiple units of the same equipment or item are to be acquired, it is expected that a purchase order be used if the total cost of the combined units is in excess of \$1,500. In no instance may the requirement of a purchase order be avoided by making multiple individual purchases in succession.

NOTE: The above thresholds do not including shipping/freight costs.

SECTION VIII: BULK PURCHASING

For purchases such as telephone, heat, vehicle fuel, bottled water and office supplies, which cross several departments, every effort should be made to use one vendor and purchase in bulk, in order to take advantage of discounts that may be offered. For specialized office supplies such as business cards and letterhead, a standardized format should be used across all departments.

SECTION IX: TYPES OF COMPETITIVE PROCUREMENT

REQUEST FOR PROPOSALS: Certain professional services, such as architectural, engineering, and auditing, are more appropriately solicited through a Request for Proposals (RFP). This is due to the need to consider factors other than price, such as professional qualifications, previous experience in related projects, and review of support staff's backgrounds.

When soliciting for RFP's the specifications must contain the following information: scope of services to be performed; timing; evaluation criteria; minimum qualifications of professional experience; and price.

The Town shall solicit proposals from at least three (3) vendors providing the professional service. Selection should be made by utilizing the following criteria:

- proposal review;
- interview of individual;
- reference checks, including site visits if applicable.

THE COMPETITIVE BID PROCESS

Each department shall maintain contract files in accordance with the State of NH's record retention rules. Each file shall contain the following, minimum information for the retention period, as appropriate:

- Bid specifications, public notice of bid solicitation and other relevant pre-solicitation documents;
- Records of recommendations, justifications, and approvals;
- Lists of those vendors/individuals sent the bid specifications;
- Copy of each offer or quotations and any records or documentation. Any unsuccessful offers will be maintained in the contract file;
- Record of any required
- Notice of bid award;
- The original of the signed contract or bid award, all contract modifications, and other change orders or amendments;
- Bid, performance, or other bond documents or a reference thereto.

BID SPECIFICATIONS: The Department Head shall prepare specifications for bid items, and shall submit the final specifications to the Town Administrator for approval prior to solicitation of bids. As a part of the specifications, the Department Head should always include the following minimum items or requirements:

- Bidders must clearly identify the product or service on which they are bidding on all envelopes.
- Bidders shall provide samples with the bid when applicable. All samples will be returned to the vendors after the bid completion.

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- ❑ The Town’s Tax Exempt Number: #02-6000596
- ❑ The terms of the contract, including effective dates, extension terms, termination clauses, and other applicable terminology.
- ❑ The party responsible for the freight and insurance charges, as well as how damaged goods will be returned and the extent of guarantees.
- ❑ Where applicable, performance bonds will be required and shall always be required, as specified by RSA 447:16, for construction projects with a value greater than \$25000.
- ❑ A statement which reserves the Town’s right to reject any and all bids, negotiate any contracts and waive any informalities in the bid process.
- ❑ A statement, which reserves the Town’s right to consider substitution of equivalent items and under what conditions. The specifications shall include a statement, which requires the bidder to submit documentation for all substitutions and exceptions.
- ❑ Where applicable, the Town will hold a bidders conference to acquaint the bidders with the process, and to address any special concerns, questions or request for exceptions that may arise.
- ❑ Minimum quantity and quality requirements. These requirements should be specific enough to ensure the desired level of quality, but also must be flexible enough to elicit multiple bids.
- ❑ The following non-collusion clause shall be part of every bid specification package. A bidder must sign this statement in order for the bid to be valid.

“The undersigned certifies under penalties of perjury that this bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this section the word “person” means any natural person, joint venture, partnership, corporation or other business or legal entity.”

(Name of person signing bid)

(Date)

(Company)

PUBLIC NOTICE: The Town Administrator shall invite all bids by advertisement in at least one (1) newspaper of general circulation in the Town of New Durham, such publication to be at least fourteen (14) days before the time of the bid opening. All bid notices must remain posted in at least two public places, one of which must be at the Town Hall, for a period of not less than two weeks (14 days).

The Invitation to Bid shall include the following information:

- ❑ time and date of receipt of bids
- ❑ address to which the bid is to be delivered
- ❑ date by which the Town may accept the bid and contract with the vendor
- ❑ a general description of the good or service being purchased

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- ❑ any and all contractual terms and conditions applicable to the purchase
- ❑ indicate where and when an Invitation to Bid may be obtained
- ❑ indicate where and by what date bids must be submitted
- ❑ indicate where and when bids will be opened, and by whom
- ❑ provide a description of the good or service requested
- ❑ reserve the Town's right to reject any and all bids.

AVAILABILITY OF SPECIFICATIONS: The Town Administrator shall mail copies of these specifications to those firms/vendors as listed as qualified, as well as additional firms who may request a copy. The Town Administrator reserves the right to charge for copies according to size and complexity (i.e. construction drawings, etc.)

EXAMPLE OF BID PUBLIC NOTICE: “The Town of New Durham , New Hampshire is currently accepting bids for the (name of bid item). Bid specifications are available from the Selectmen's Office, PO Box 207, New Durham, New Hampshire, 03855-0207, Tel: (603) 859-2091 for a fee of \$15.00. Sealed bids will be received until 4:00 PM, month, date, and year. Bids will be publicly opened and read at that time, and approved at the next Selectmen's Meeting at 8:00 PM. The Town of New Durham reserves the right to reject any and all bids if deemed in the best interest of the Town.”

ACCEPTANCE OF BIDS: The Town Administrator shall accept all bids up to the time specified for receipt of bids in the Public Notice. All bids will be dated and time stamped by the Selectmen's Office. Any late bids will be rejected. A bidder may correct, modify, or withdraw a bid by written notice received in the Selectmen's Office before the time and date set for the bid opening.

Telegraphic bids (meaning by telegram, mailgram, or by facsimile) will be considered or accepted unless prohibited by the solicitation.

Bids must be submitted in accordance with the bid solicitation. If a bidder chooses to use its own bid form or a letter to submit a bid, the bid will be considered only if the bidder explicitly, in written form, accepts all the terms and conditions of the invitation and further that the award of the bid would result in a binding contract under the terms and conditions of the solicitations and other terms and conditions contained in the submitted bid which do not conflict with those in the solicitation.

BID OPENING: All bids will be opened by the Town Administrator at the time and date specified in the Public Notice. The names and quotes for all bidders shall be listed in the recorded minutes of the Selectmen's minutes, and made available for public inspection. The Town Administrator may authorize a designee to open the bids. The Town Administrator shall notify all bidders of any changes in the opening time and/or date.

BID CORRECTIONS: After the bid opening, the bidder may not amend, correct, modify, or change in any fashion a bid, which would be contradictory to the interests of the Town of New Durham or fair competition.

BID AWARD: Bids meeting the specifications shall be reviewed by the Department Head in consultation with the Town Administrator and others as needed. A recommendation shall be made

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to the Board of Selectmen for approval.

The Town Administrator shall award the contract to the successful bidder, in accordance with the vote of the Selectmen, and be responsible for preparing Notice of Bid Awards and submitting same to the successful bidder as well as all other bidders.

CONTRACTOR QUALIFICATIONS: To be determined responsible, a prospective contractor must:

- ❑ have adequate financial resources to perform the contract, or the ability to obtain them;
- ❑ be able to comply with the required or proposed delivery or performance schedules;
- ❑ have a satisfactory performance record;
- ❑ have a proven record of integrity and business ethics;
- ❑ have the necessary organization, experience, technical skills, and support staff, or the ability to obtain them;
- ❑ have the necessary production, construction, and repair equipment and parts required to fulfill the contract requirements.
- ❑ provide at least two references and phone numbers.
- ❑ According to *2 CFR Part 180*, when the Town (a non-federal entity) enters into a covered transaction with an entity at a lower tier (a contractor or business), the Town must verify that the entity is not suspended or debarred or otherwise excluded. Covered transactions include those procurement contracts for goods and services awarded under non-procurement transaction (i.e. grant or cooperative agreement) that are expected to equal or exceed \$25,000 or meet certain other specified criteria. This verification may be accomplished by checking the *Excluded Parties List System* maintained by the General Services Administration, collecting a certification from the entity, or adding a clause or condition to the covered transaction with that entity.

SECTION X: MISCELLANEOUS PROVISIONS

- ❑ **SOLE SOURCE PROPOSALS:** The Town of New Durham will not entertain the solicitation of a single source vendor for supplies and/or services unless the competitive bid requirements are explicitly waived by vote of the Board of Selectmen. Absent such vote, the Town will consider a vendor if they are the only bidder, provided that the procedural steps in soliciting bids has been followed and documented by the Town's soliciting authority.
- ❑ **CHANGE ORDERS:** Whenever a change of a monetary kind occurs on the original purchase order, a new order with the updated information must be submitted by the Department Head, modifying the purchase order. The modified order will be re-routed for approval with the notation "Modifying or Changing Purchase Order No. _____."
- ❑ **EMERGENCY PURCHASES:** An emergency purchase may be made by a Department Head only if the normal operations of the department are in jeopardy. This shall generally mean or relate to emergency repairs to equipment or facilities which must be kept operating to protect the health and/or safety of persons, or property. A purchase order shall be prepared and marked as EMERGENCY. The order shall then be given to the individual authorized to approve the request in accordance with the limits outlined in Section VI.

For purposes of this paragraph only, the competitive procurement provisions of these policies may only be waived by the Chairman of the Board of Selectmen or his/her designee. This waive shall only be considered when there exists a special emergency involving the health and safety of the people or their property.

SECTION XI: DISPOSAL OF SURPLUS PROPERTY

Any property, which is considered to be surplus and valued at over \$100 must be presented to the Board of Selectmen by the Department Head with a recommended method of disposition for approval. Various possible disposition means are the sealed bid or auction process, State surplus auction, trade in usage, retained for usage as parts, or transfer to another Town Department. Any surplus items with a value of less than \$100 may be disposed of by the Department Head as they deem appropriate, given the concurrence of the Town Administrator.

If the means of disposition is either the sealed bid or auction, the Town Administrator shall be responsible for publishing the necessary public notices to comply as closely as possible with the intent as set forth in Section VIII-B-4.

SECTION XII: AMENDMENTS

These policies may from time to time be amended by the vote of the Board of Selectmen at a properly scheduled Selectmen's Meeting.

SECTION XIII: EFFECTIVE DATE

These policies shall be effective upon a vote of the Board of Selectmen and shall replace any and all bid procedures or policies previously enacted by the Town.

Amended by the Board of Selectmen:

Date: Adopted October 15th, 2007

Amended April 2th, 2012