

# TOWN OF SHELBURNE

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## PERSONNEL POLICY

**ADOPTED:**

**February 27, 2018**

**Amended September 4, 2018**

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## **Section 1: Introduction**

Welcome to the Town of Shelburne. Our Town is dedicated to providing efficient, quality, and economical municipal services to the citizens of our community. The Town organization is committed to providing high quality services and expects each employee to be courteous, friendly, and helpful, to work cooperatively with other employees, to care about your work, and to help foster a productive and supportive working environment.

We depend on employees to help the Town continue to provide quality services. The best way to accomplish this overarching goal is through working together with mutual respect and friendly cooperation. Although this is a legal document intended to make clear certain rules, processes and procedures, we are dedicated to constantly maintaining a positive work environment.

The Town of Shelburne believes our employees are our greatest asset and our best investment. We strive to provide a safe, pleasant, and enjoyable work atmosphere in which the skills, abilities, and creativity of individual employees can flourish. We believe we provide outstanding incentives and rewards in terms of total compensation that includes monetary compensation, employee benefits, pleasant working conditions, and flexibility in meeting the needs of employees within the context of serving the community. Our ultimate goal is to provide an outstanding place to work and an organization that consistently provides excellent services to the community.

Our employees are important to us. Likewise, it is important that employees recognize the significance of their commitment to their role in providing service to the community. We expect employees to provide services in the most effective, efficient, and courteous manner possible. Employees should work together as a team, both within their department and among the various town departments.

Please read this Personnel Policy carefully. The purposes are to:

- inform employees of personnel policies of the Town of Shelburne;
- establish effective communication between Town employees and management; and
- ensure equity in the Town's human resources administration.

Please read all of the information presented and keep it as a reference. When questions arise that are not answered in these guidelines, do not hesitate to ask your Department Head or the Town Manager for assistance.

Feel free to offer suggestions, comments, and ideas as to how it might be improved. Thank you for your dedication to the organization and the community!

## Section 2: Definitions

Unless otherwise provided, the following definitions shall apply to this Personnel Policy:

**Abandons Position** - The unexplained and unexcused absence of an employee for three (3) consecutive work days.

**Close Relative** – A person with a relationship with the subject employee in which the relationship is that of a spouse, civil union partner, domestic partner, parent, stepparent, grandparent, child, stepchild, grandchild, sibling, aunt, uncle, niece, nephew, parent-in-law or sibling-in-law.

**Conflict of Interest** - A Conflict of Interest occurs when an employee is in a position to influence a work-related action, decision or transaction in any cause, proceeding, application or any other matter pending before the employee or the Town that may result in a personal interest or gain for that employee or a personal interest or gain for a Close Relative, business associate, employer or employee of that individual. This personal interest or gain may appear in the form of a benefit received by a company or firm in which the employee, or the employee's close relative, has a business interest, or when an employee or relative receives any kickback, bribe, substantial gift, or special consideration as a result of any transaction or business dealing involving the Town.

**Compensatory Time (Comp Time)** - Leave provided to employees, instead of overtime pay, as compensation for overtime work.

**Computer System** - All Mobile Communication Devices, smart phones, computer-related components and equipment including, but not limited to, host computers, file servers, workstation terminals, laptops, software, internal or external communication networks, the world wide web (www), the Internet, commercial online services, bulletin board systems, backup systems and the internal and external e-mail systems accessed via the Town's computer equipment.

**Department Head** - The authorized and designated head of each Town department.

**Exempt Employee** - An employee who is not subject to the provisions of the federal Fair Labor Standards Act (FLSA).

**Non-Exempt Employee** - An employee who is subject to the provisions of the federal Fair Labor Standards Act (FLSA). The FLSA provides overtime and minimum wage protections to covered employees.

**Financial Interest** - Any interest which may yield, directly or indirectly, a monetary or other material benefit (other than the employee's salary, wage, or compensation by the Town for services).

**Full-Time Employee** - An employee who works a minimum of thirty (30) hours per week on a regular and continuous basis; or an employee whose employment is designated as full-time by the Town Manager and Selectboard.

**Mobile Communication Device** - Any cell phone or other handheld portable electronic device.

**Part-Time Employee** - An employee engaged on a yearly part-time basis whose regularly scheduled hours are fewer than 30 per week.

**Pay Period** - Recurring length of time over which employee work and leave time is recorded and compensated. Current pay period runs weekly, Monday through Sunday.

**Personal Interest** - An interest or potential advantage which arises from family, business or political association, whether or not any financial interest is involved.

**Probationary Period** - For most employees, the initial six (6) months (or longer if extended by the Town Manager) of service with the Town; for police officers, the initial twelve (12) months (or longer if extended by the Town Manager) of service with the Town.

**Regular Employee** - A Part-Time or Full-Time Employee hired by the Town for an indefinite term.

**Social Media** - Online applications and mobile-based tools that facilitate the sharing of information, interactivity, and communication amongst individuals, groups, organizations, and the government through digital transmissions. These tools currently include social networks, blogs, video sharing, podcasts, wikis, message boards and online forums. Currently available technologies include picture and video sharing, and wall postings. Examples of Social Media applications include, but are not limited to, Google and Yahoo Groups; Wikipedia; MySpace and Facebook; YouTube; Flickr; Twitter; LinkedIn; Front Porch Forum; and news media comment sharing/blogging.

**Temporary Employee** - An employee hired by the Town for a fixed term of service. These employees receive no benefits beyond regular pay, workers' compensation insurance, unemployment insurance, or other benefits as required by state or federal law. This includes seasonal employees.

## **Section 3: Administration**

### **3.1. *Title and Authority***

This policy shall be known as the Town of Shelburne Personnel Policy. It has been adopted by the Town of Shelburne Selectboard pursuant to 24 V.S.A. §§ 1121 and 1122.

### **3.2. *Notice and Disclaimer of Contract***

This Personnel Policy does not constitute an express or implied contract of employment between the Town and any current or future employees. With the exception of those employees who have a written contract of employment with the Town, employment by the Town of Shelburne is *at-will* and not for any definite period or succession successive of periods of time. The Town or the employee may terminate the employment relationship at any time, with or without notice, for any reason, and without a hearing, unless otherwise agreed in writing by the Town and the employee or the certified bargaining representative for a group of employees or as otherwise provided by law. Likewise, the employee has the right to terminate at any time.

### **3.3. *Amendment and Administration***

The Personnel Policy is intended to serve as a practical guide to the Town and the employees of the Town. However, since it is only a summary, compiled for the convenience of our employees and supervisors, it is not intended to cover all topics or circumstances. The Town reserves the right to amend any of the provisions of this Personnel Policy for any reason and at any time, with or without notice, in accordance with all applicable laws. Employees may receive updated information concerning changes to the Personnel Policy.

This Personnel Policy will be administered by the Town Manager or his/her authorized representative. However, each Department Head shall be responsible for the administration of these regulations with respect to employees within his/her department.

In some instances, operations Policies or policies may be adopted by a department to cover specific circumstances and to maintain efficient and effective operations, as long as they do not conflict with this Personnel Policy. Such Policies and policies must be approved by the Town Manager.

The Town Manager shall schedule an annual review of the Personnel Policy with the Selectboard no later than June 30 of each year.

### **3.4. *Persons Covered***

This Personnel Policy applies to Full-Time and Part-Time Employees of the Town of Shelburne. The Personnel Policy applies to the Library Director and all library employees only to the extent that the Personnel Policy has been expressly adopted by the Town library trustees; otherwise, it does not. Similarly, except by separate written agreement, elected officers and their statutory assistants, members of Town boards, commissions, and committees, volunteers (other than Volunteer Fire and Rescue department members) who serve the Town without compensation other than reimbursement for expenses, and persons who provide the Town with services on a contract basis are not covered by the Personnel Policy.

Volunteer Fire and Rescue department members shall be subject to all sections of this Personnel Policy except:



- Section 8 Employee Benefits. However, at the discretion of the Town Manager, Volunteer Fire and Rescue department members may participate in the Employee Assistance Program (Addendum C, Section C.7.) and obtain a Town Beach sticker (Addendum C, Section C.9.). Volunteer Fire and Rescue department members may also receive Employee Benefits as otherwise required by law.
- Section 9 Compensation.

Where a conflict exists between this policy and any collective bargaining agreement or individual employment contract, the latter will control. Where a conflict exists between this policy and a department-specific policy, the former will control except for the Fire and Rescue Departments given the unique performance standards for those agencies, in which case their operating guidelines, rules and regulations, and bylaws will control.

### **3.5. *Applicable Time Periods***

The accumulation of vacation, sick leave, and personal leave shall commence with the date of hire, except as otherwise provided. For all other purposes, the term “year” shall refer to the July 1 - June 30 fiscal year.

## **Section 4: Equal Employment Opportunity**

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

## **Section 5: Employment Practices**

### **5.1. *Vacant Positions***

When a vacancy is anticipated or occurs, the Department Head shall notify the Town Manager as soon as possible. The Department Head may suggest filling the vacancy from within, eliminating the position, or changing the position and revising the job description. The Town Manager must approve all job description changes and vacancy appointments, whether through internal transfer, promotion, or external search process, and consistent with applicable labor union contracts.

When a Department Head believes there is a need to create an additional position, she or he must submit a written request to the Town Manager that describes and substantiates the need as fully as possible. She or he may additionally be asked to submit a proposed job description and suggested pay range. **No new position can be established without advance approval by the Town Manager and funding per established budget. The rate of pay or hiring range must**

**be approved, prior to the internal or external search, promotion, or transfer process, by the Town Manager.**

## **5.2. *Internal Transfer and Promotion***

The Town Manager shall have the authority to transfer and/or promote an employee to a different position between town departments without advertising or otherwise searching externally.

## **5.3. *External Searches***

As deemed appropriate by the Town Manager, the Town may publicly advertise any job vacancy in venues such as: the town website, online websites and job boards, and/or appropriate print/online newspapers, trade journals, etc. Additionally, the vacancy shall be posted in appropriate locations accessible to Town employees.

The Town Manager or his/her designee will use professional judgment on how best to advertise but will generally include: job title, hiring range, a brief description of the role and required/desired qualifications. Posting the hiring range does not necessarily preclude an initial salary that is higher, if justified by the qualifications and/or market conditions; however, approval of the Town Manager is required.

## **5.4 *Applications***

Application procedures for employment, including the application materials to be submitted, shall be determined by the Town Manager as appropriate for the type of job vacancy. Application forms shall include information about the applicant's identity, work experience, references, and any other information deemed relevant by the Town Manager. Application forms shall not include a request for criminal history record information unless otherwise provided for by law, including 21 V.S.A. § 495j. All applications must be signed by the applicant attesting to the truthfulness of the information provided. Any material false statement or deliberately misleading information shall be grounds for rejection of the application or dismissal from the Town's service if the falsehood is discovered after hire.

Among other reasons, written employment applications may be rejected from any applicant:

- a) whose application clearly indicates that minimum required qualifications are not fulfilled;
- b) whose employment has been terminated for just cause from a department of the Town;
- c) who has practiced or attempted fraud or deception in any statement of fact pertinent to the application.; or
- d) who is a Close Relative of a sitting member of a Town board, commission, or of a Trustee, as the Town prohibits such a hiring.

## **5.5. Selection**

Upon review of applications, and conducting interviews as appropriate, the Town Manager, together with the Department Head, shall select the applicant whose integrity, qualifications, and references indicate he/she best meets the needs of the town. The Town Manager, together with the Department Head, shall make a conditional offer of employment to the selected individual that is consistent with applicable law, including 21 V.S.A. § 495.

After a conditional offer of employment has been made to a selected individual but before the commencement of work, every new employee is required to undergo a medical examination by a physician or other licensed health practitioner of his/her choice; the cost of the examination will be paid by the Town. The purpose of the medical examination is to confirm whether the candidate is able to safely perform the essential functions of the job, either with or without a reasonable accommodation that would not cause an undue hardship for the Town.

Background checks will be required.

## **5.6. Probationary Period**

All new employees will be required to complete a six-month Probationary Period, except police officers who must serve a twelve-month Probationary Period. Additionally, any employee that is transferred or promoted to a new position will complete a six-month Probationary Period. The Probationary Period for new, transferred, and promoted employees may be extended by the Town Manager.

The purpose of this Probationary Period is to determine whether the employee is suited for the job. During the Probationary Period of a new employee, the employee may be terminated at any time at the sole discretion of the Town Manager. Notwithstanding any other provision of this Personnel Policy, an employee terminated during the Probationary Period will have no right to grieve or appeal such termination.

During the Probationary Period of an employee who has been transferred or promoted and where the employee fails to meet the job performance expectations of the new position, the Town Manager may:

- demote the employee to the prior position, if available;
- demote the employee to a position similar to the prior position, if available; or
- terminate the employee.

Notwithstanding any other provision of this Personnel Policy, an employee who has been transferred or promoted and who is terminated during the Probationary Period will have a right to grieve or appeal such termination only on the grounds that the termination was discriminatory.

## **5.7. Personnel Records**

Personnel records will be maintained for each employee of the Town. Personnel records for each employee are kept in the office of the Town Manager and are the property of the Town. These

records are confidential in nature and should be accessible only to the Town Manager, or designee, and the employee. The employee personnel records may include, among other things, application materials, correspondence and agreements regarding employment by the Town, performance evaluations, and documentation of issues related to leave, promotion, discipline, dismissal or resignation. Each employee is responsible for updating with the Town Manager or the Town Manager's designee, in writing, any pertinent changes in the employee's situation, including the employee's address, marital status, or the number and names of dependents.

Any medical records related to an employee will be separately maintained by the Town in a separate, confidential file to which access is restricted.

In accordance with Vermont's Public Records Law, 1 V.S.A. §§ 315-320, any employee or the employee's designated representative may inspect or copy his or her personnel file at a mutually agreeable time during regular office hours. The Town reserves the right to have its representative present at the time its files are examined or copied.

Requests for specific information regarding employees, which are not made by the employee or the employee's designated representative, must be made to the Town Manager and shall be granted on a "need to know" basis for bona fide Town purposes. Other requests shall be denied except as follows:

- current or former employee's dates of employment and job title(s) upon request to the Town Manager or his/her designee;
- current or former employee's additional information only upon the Town's receipt of an acceptable signed waiver and consent to a full release of information, executed by the employee or former employee.

Notwithstanding any of the above, where the privacy rights of others or best interests of the Town are involved, Town officers may exercise discretion in limiting access to and copying of information in personnel files, even in the event of employee waiver and consent.

## **Section 6: Rules and Expectations**

### **6.1. *Conduct of Employees***

Because of the public trust invested in Shelburne town government, it is the duty of every employee to conduct him/herself in a polite, respectful, and professional manner. High standards of conduct are essential to municipal service and are expected of each employee. All employees are considered representatives of the Town and as such are expected to conduct themselves in a courteous, helpful, and respectful manner in all their interactions with the public, other employees, and elected and appointed officials. Employees shall not publicly defame, ridicule, or otherwise undermine the dignity and effectiveness of another Town employee, a Town department, or the Town government as a whole, through verbal or written communication, including all electronic formats and Social Media. Employees shall not encourage nor incite ridicule that defames or otherwise undermines the dignity and effectiveness of another Town employee, a Town department, or the Town government as a whole, through verbal or written

communication, including all electronic formats and Social Media. This prohibition is not intended to interfere with employees' rights under Section 7 of the National Labor Relations Act to form, join or assist a union.

All employees are expected to faithfully execute the duties and responsibilities of their office to the best of their ability and in compliance with the provisions of this Personnel Policy. All employees shall maintain productive, polite, and respectful working relationships. Work shall be performed in an efficient, timely, and effective manner. Employees may express disagreement respectfully in an appropriate setting, such as in a private meeting with the person with whom they disagree. If disagreements continue, the appropriate mediation shall be undertaken to resolve any disputes. If necessary, the Department Head, or the Town Manager, will make himself or herself available to assist in mediating interpersonal conflict between members of the staff.

All employees are expected to acquire, develop, and expand the skills required by his/her position.

## **6.2. *Conflicts of Interest***

Employees have an obligation to conduct business in a manner that avoids any actual, perceived or potential Conflict of Interest. A Conflict of Interest occurs when an employee is in a position to influence a work-related action, decision or transaction in any cause, proceeding, application or any other matter pending before the employee or the Town that may result in a personal gain for that employee or a personal gain for a Close Relative, business associate, employer or employee of that individual. This personal gain may appear in the form of a benefit received by a company or firm in which the employee, or the employee's close relative, has a business interest, or when an employee or relative receives any kickback, bribe, substantial gift, or special consideration as a result of any transaction or business dealing involving the town.

Every employee of the town shall carry out his or her job in a way that ensures that neither the individual employee nor any other employee of the municipality will gain a personal or financial advantage from his or her work for the municipality and so that the public trust will be preserved. All decisions made by municipal employees shall be made based on the best interest of the community at large rather than the interests of any particular individual or employee.

An employee shall disclose any actual, perceived or potential Conflict of Interest and shall decline to participate in any action or sphere of influence in their capacity as a Town employee, decision or transaction unless the Conflict of Interest is determined to be nonexistent by the Department Head and the Town Manager.

**Federal Grants:** When Town of Shelburne employees are participating in the selection, award or administration of contracts involving federal grants, the employee(s) shall disclose any actual, perceived or potential Conflict of Interest. To the extent any actual, perceived or potential Conflict of Interest exists, the employee shall decline to participate in any action or sphere of influence associated with the federal grant project. Employees who violate this provision will be subject to disciplinary action as provided in Section 11 of this Shelburne Personnel Policy.

An employee shall not personally, or through a Close Relative, business associate, employer or employee, represent, appear for, or negotiate in a private capacity on behalf of any person or organization in a cause, proceeding, application or other matter pending before the municipality.

An employee shall not use resources unavailable to the general public, including but not limited to town staff time, equipment, tools, supplies, or facilities for private gain or personal purposes.

An employee shall not, without explicit prior authorization from the Town Manager, disclose confidential information relating to the officers, employees, transactions, property, or affairs of the Town nor shall any Town employee use or assist in the use of any such confidential matter to advance the financial interest of said individual.

An employee may accept, from an individual or entity, nominal gifts or gratuities in connection with actions associated with their official duties on behalf of the Town with an aggregate estimated monetary value not exceeding \$25 per calendar year. Employees may not directly or indirectly ask, demand, exact, solicit, accept or receive any gift, gratuity, act or promise beneficial to that individual, or another, which could influence any action or inaction associated with their official duties on behalf of the Town, or create the appearance of impropriety in connection with any actions or inactions associated with their official duties on behalf of the town. Any employee authorized to procure or to recommend procurement of materials, supplies or services, directly or indirectly, shall not ask, demand, exact, solicit, seek, accept, receive or agree to receive for the employee or another person, any benefit or benefits from the person providing or soliciting the provision of such materials, supplies or services, with the exception that the employee may receive items of a de minimus nature valued at \$25 or less (such as vendor booth “freebies”) per calendar year from an individual or entity.

An employee may accept, from an individual or entity, a gift in the form of a meal if the meal is routine and not unusual.

### **6.3. *Fraud***

The Town has an interest in preventing fraud; fraud by Town employees will not be tolerated. Additionally, this section of the Personnel Policy encourages Town employees to combat fraud involving other employees, elected or appointed officials, consultants, vendors, contractors, outside agencies and/or any other parties that have a business relationship with the Town.

Fraud involves the use of an individual’s occupation for personal enrichment or benefit through the deliberate misuse or misapplication of Town’s resources or assets.

Examples of activities that constitute fraud include, but are not limited to, the following:

- Theft of money or property;
- Receiving bribes;
- Misappropriation in handling funds, securities, supplies or other assets belonging to the Town;

- Engaging in transactions or decisions that involve a Conflict of Interest as defined at Section 2 of this Personnel Policy;
- Destruction, removal or inappropriate use of records, furniture, fixtures, tools, vehicles, Mobile Communication Devices, computers, or other Town equipment;
- Worker's compensation fraud;
- Payroll falsification; and
- Expense reimbursement falsification.

Department Heads and other management are ultimately responsible for the detection and prevention of fraud. However, Department Heads and other management rely on the observations and communications of all employees to detect and prevent fraud.

Any irregularity with respect to Town assets that an employee suspects or detects shall be immediately reported to the employee's Department Head, the Town Manager, the Town Clerk and/or Treasurer or the Finance Director. All reports received shall be referred directly to the Town Manager, except for complaints relating to actions by the Town Manager, which will be referred directly to the Selectboard. Investigations will be conducted by the Town Manager or the Selectboard, as appropriate. The attorney for the Town will be consulted as necessary.

Any employee who reports a suspected fraud or irregularity to the employee's Department Head, the Town Manager, the Town Clerk and/or Treasurer or the Finance Director shall not attempt to personally conduct an investigation related to the suspected fraud or irregularity. The Town Manager (or Selectboard if the complaint is against the Town Manager), in consultation with the Town Clerk and/or Treasurer, Finance Director and the attorney for the Town, shall have the primary responsibility for the investigation of all suspected fraudulent acts. All instances that are investigated will be disclosed to the Auditors responsible for preparing the Town's annual financial audit. If the investigation substantiates that fraudulent activities have occurred, the Town Manager (or Selectboard if the complaint is against the Town Manager), with the assistance of the attorney for the Town, as necessary, shall prepare a written report documenting the suspected fraud. The Town Manager (or Selectboard if the complaint is against the Town Manager), in consultation with the attorney for the Town, will decide whether to refer the suspected fraud to appropriate law enforcement and/or regulatory agencies for further investigation. The Town Manager (or Selectboard if the complaint is against the Town Manager) shall make a final decision as to the disposition of the case with respect to the Town's involvement, which may include discipline of the employee in accord with this Personnel Policy or an appropriate Bargaining Unit contract.

The Department Head, the Town Manager, the Town Clerk and/or Treasurer and/or the Finance Director involved in receiving the complaint from the employee and/or investigating the complaint on behalf of the employee shall keep the identity of the employee confidential throughout the entirety of the process, to the extent permitted by law.

#### **6.4. *Hours of Service***

Regular work hours shall be determined by the Department Head or Town Manager. All employees are expected to be in attendance during regular work hours and punctual in reporting to work. Employees who will be absent from work are expected to notify their supervisor as far

in advance as possible and all unexpected absences shall be reported as soon as possible. An employee failing to report to work, without explanation, for three consecutive work shifts, shall be considered to have abandoned his/her position. An employee who abandons his/her position may be subject to termination.

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

### **6.5. Reasonable Accommodations for Persons with Disabilities**

The Town is committed to complying with all applicable provisions of the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.* It is the Town's policy to not discriminate against any qualified employee or applicant with regard to any terms or conditions of employment because of such individual's disability or perceived disability so long as the employee can perform the essential functions of the job. Consistent with the policy of nondiscrimination, the Town will provide reasonable accommodations to a qualified individual with a disability, as defined by the ADA, who has made the Town aware of his or her disability, provided that such accommodation does not constitute an undue hardship on the Town.

Applicants or employees with a disability who believe that they need a reasonable accommodation should make the town aware of his or her disability by contacting their Department Head or the Town Manager.

Upon receipt of an accommodation request, the Town will review potential reasonable accommodation(s) that the Town may be able to make to enable an employee to perform the essential functions of his/her job. The Town will determine the feasibility of the requested accommodation considering various factors, including, but not limited to, the nature and cost of the accommodation, the available financial resources in the department and available to the Town, the impact of the accommodation on the operation of the Town, the impact on the ability of other employees to perform their duties, and the impact on the Town's ability to conduct business.

As part of this process, an applicant or employee may be required to provide authorization to the Town to communicate with and obtain documentation from his or her doctor regarding the medical condition(s) for which reasonable accommodation is sought, and may further be required to be evaluated by a doctor of the Town's choice. All such medical information discussed and received shall be treated as confidential to the extent required and permissible by law.

The Town Manager or Department Head will inform the employee of its decision on the accommodation request or on how to make the accommodation.



## **6.6. *Reasonable Accommodations for Individuals with Pregnancy-Related Conditions.***

Vermont law protects women with pregnancy-related conditions and extends the same rights and standards with respect to the provision of a reasonable accommodations as a qualified individual with a disability, regardless of whether the pregnant individual qualifies as a person with a disability. The Town will provide reasonable accommodations to a woman with a pregnancy-related condition who has made the Town aware of his or her condition, provided that such accommodation does not constitute an undue hardship on the Town. See V.S.A. § 495k (Effective January 1, 2018).

## **6.7. *Reasonable Accommodations for Nursing Mothers***

Vermont law, 21 V.S.A. § 305, provides protection for nursing mothers in the workplace for up to three years following the birth of a child. So long as it will not substantially disrupt operations and upon request, the Town will make a reasonable accommodation to provide reasonable time throughout the day and an appropriate private space, that is not a bathroom stall, for a nursing mother to express breast milk for her nursing child.

## **6.8. *Flexible Working Arrangements***

Employees have the right to request a flexible working arrangement according to Vermont law, 21 V.S.A. § 309. A flexible working arrangement is an intermediate or long-term change in the employee's regular working arrangement, including changes in the number of days or hours worked, changes in the time the employee arrives at or departs from work, work from home, or job sharing.

## **6.9. *Telecommuting***

An employee request for a flexible working arrangement may involve a request to telecommute. Alternatively, a supervisor may identify an advantage to the Town in offering a telecommuting option to an employee. Telecommuting is the practice of working at home or another work site other than the Town Office or as described in the employee's job description. It is an alternative that may be granted only to certain employees in certain positions, consistent with applicable law, at the sole discretion of the Town Manager. Telecommuting is not an employee benefit, but an alternate approach to fulfilling the Town's work requirements strictly on a case-by-case basis.

The Town Manager shall consider whether the proposed alternate work site is suitable for telecommuting. An alternate work site is presumed to be not suitable when the employee is the primary caregiver for a dependent at the alternative work site during the working hours. Telecommuting is not a substitute for childcare, eldercare, or an opportunity to fulfill other family or personal responsibilities. If children or adults in need of primary care are in the alternate work location during employees' work hours, some other individual must be present to provide the care.

## **6.10. *Outside Employment***

The primary occupation of all full-time employees shall be with the Town. Employees may not engage in any outside business activities during their normal working hours. Additionally, employees may not engage in outside business activities during times that are not normal

working hours if the outside business activities interfere with their job performance or constitute an actual, perceived or potential Conflict of Interest.

Prior to accepting ongoing outside employment, employees will disclose their intent to do so in writing and obtain prior clearance from the Department Head and Town Manager that such employment does not constitute an actual, perceived or potential Conflict of Interest.

### **6.11. Political Activity**

An employee shall not use his or her official authority for the purpose of interfering with or affecting the nomination or election of any candidate for public office, or demand or solicit from any individual direct or indirect participation in any political party, political organization or support of any political candidate. Employees are prohibited from using Town facilities, equipment or resources for political purposes and from pursuing political activities while working.

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

### **6.12. Nepotism**

The Town – in recognition of the potential for an actual, perceived or potential Conflict of Interest to occur in the workplace where a Close Relative is responsible for supervising or evaluating the work performance of another Close Relative – prohibits the hiring or transferring of Close Relatives, when doing so will result in a Close Relative supervising or evaluating another Close Relative, or a Close Relative supervising or evaluating the immediate supervision of another Close Relative.

Additionally, the Town prohibits the hiring of a Close Relative or a household member of a sitting member of a Town board, authority, commission, committee, or board of trustees. Further, an employee of the Town shall not directly hire or attempt to influence the hiring of a Close Relative.

### **6.13. Alcohol and Drug Free Workplace**

The Town of Shelburne is committed to maintaining safe, efficient working conditions for its employees by providing a drug-free workplace. This policy is adopted in accordance with the Drug Free Workplace Act, 41 U.S.C. §§ 8101-8106.

Employees shall not be involved with the unlawful manufacture, distribution, possession, or use of an illegal drug, controlled substance or alcohol while on Town premises or while conducting Town business off Town premises. This policy shall apply to all employees, including any employee that is telecommuting or otherwise working from an alternate work site. Any

employee who discovers a violation of this policy shall notify their Department Head or the Town Manager.

An employee must report a conviction under a criminal drug statute for violations occurring on or off Town premises while on Town business to the Department Head or Town Manager within 5 days after the conviction or plea. The Town will notify any government agency providing grant funds or any government agency with which the Town has a qualifying contract of such conviction or plea within 10 days thereafter. Upon request, the Town Manager or his/her designee shall meet with the employee (and a Union representative, if the employee is part of a collective bargaining unit) before taking any further action.

Employees shall only use prescription drugs on town premises which have been prescribed by a licensed medical practitioner, and such drugs shall be used only as prescribed. Further, such drugs may not interfere with the ability of the employee to perform job functions. An employee in a safety-sensitive position may not perform safety-sensitive job duties while taking prescribed medications that adversely affect the employee's ability to safely and effectively perform those job duties.

An employee shall not consume alcohol or recreational marijuana on Town premises or off Town premises while conducting Town business. An employee who is on duty, including any employee who is telecommuting or otherwise working from an alternate work site, shall not be under the influence of alcohol.

A violation of this policy may result in disciplinary action, up to and including discharge.

In appropriate circumstances, the Town shall provide an employee with an opportunity for counseling or rehabilitation in overcoming addiction to, or dependence upon, alcohol and drugs. The Town will inform employees about available drug counseling as per 41 USC § 8103.

In addition to the foregoing policy regarding a Drug Free Workplace, employees who operate a commercial motor vehicle (CMV) are required to adhere to the Town of Shelburne's Drug and Alcohol Policy for CMV Drivers.

#### ***6.14. Safety and Health***

The safety and health of every employee is important to the Town. All employees are required to comply with the rules and regulations of the Vermont Occupational Safety and Health Administration (VOSHA). All employees shall report unsafe equipment and any hazardous working conditions immediately to the Supervisor and Town Manager. Retaliation against any employee or other individual who reports a safety hazard is strictly prohibited and may be grounds for discipline up to and including termination.

All employees shall immediately report any accident which results in personal injury, even if minor, or property damage of any kind, to his/her Department Head and the Town Manager.

### **6.15. Tobacco Use**

In recognition of the hazards that tobacco poses to the health of employees and visitors, and in accordance with 18 V.S.A. §§ 1421 *et seq.* and §§ 1741 *et seq.*, the Town hereby prohibits employees' and visitors' use of tobacco in any form, including electronic cigarettes, in all publicly-owned buildings, offices and enclosed areas, and in all Town vehicles.

Each employee has a responsibility to report violations of this policy to his/her supervisor or, if not resolved, to the Town Manager. It is the responsibility of supervisors and Department Heads to ensure adherence to this policy and to investigate complaints. If management fails to enforce the policy, employees can contact the Vermont Department of Health at 866-331-5622, which will then contact the employer. The law prohibits an employer from retaliating against an employee for assisting in the supervision or enforcement of these laws.

Copies of this Tobacco Use section will be distributed to all employees and lessees of Town-owned buildings and will be posted wherever required workplace posters are displayed.

### **6.16. Use of Town Equipment and Vehicles**

Except in rare cases expressly authorized by the Town Manager and re-authorized at least annually on July 1, the use of Town equipment or property for personal use is strictly prohibited. Town vehicles shall be used for Town business purposes only. In situations where employees have been authorized to drive vehicles between home and work, they shall restrict the vehicle use to Town purposes and only incidental personal use on the way to or from work is permitted.

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

### **6.17. Use of Town Computer System**

The Town Computer System is to be used by employees for the purpose of conducting Town business. Occasional, brief, and appropriate personal use of the Town Computer System is permitted, provided it is consistent with this policy and does not interfere with an employee's job duties and responsibilities.

Employees must use their Town signatures in messages pertaining to Town business sent to third parties. Employees must not use Town signatures in any personal messages.

Employees should have no expectation of privacy regarding anything created, sent or received on the Town Computer System. The Town may monitor any and all computer transactions, communications and transmissions to ensure compliance with this policy and to evaluate the use of its Computer System. All files, documents, data and other electronic messages created, received or stored on the Town Computer System are open to review and regulation by the Town and may be subject to the provisions of Vermont's Public Records Law.

With the exception of the Wastewater Department, which runs their own computer network, employees may not introduce software from any outside source on the Town's Computer

System without explicit prior authorization from the network administrator. Employees may be held responsible for any damages caused by using unauthorized software or viruses they introduce into the Town Computer System, and may also be subject to discipline up to, and including, termination.

Employees who have a confidential password to access the Town's operating system should be aware that this does not mean the Computer System is for personal confidential communication, nor does it suggest that the Computer System is the property of that person.

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

- Communications that in any way may be construed by others as disruptive, offensive, abusive, discriminatory, harassing, or threatening;
- Communications of sexually explicit images or messages;
- Transmission of chain letters or solicitations for personal gain, commercial or investment ventures, religious or political causes, outside organizations, or other non job-related solicitations during or after work hours;
- Knowingly infringing upon the copyright or other intellectual property rights of third parties;
- Sharing user identification information with another person except the network administrator or other person authorized by the Department Head or Town Manager;
- Disabling, interfering with, or not following proper security measures;
- Deletion or modification of computer files and/or data without prior consent of the primary user;
- Access to Internet resources, including web sites and news groups, that are inappropriate in a business setting;
- Any other use that may compromise the integrity of the Town and its business in any way.

Email messages that are intended to be temporary, non-substantive communications may be routinely discarded. However, employees must recognize that emails sent, received, or stored on the Town Computer System are subject to Vermont's Public Records Law and may be covered by the State of Vermont's retention rules and disposition schedules for municipal records.

### ***6.18. Security of Town Computer System***

Security of Town computers is the responsibility of each employee. Problems arising from security breaches occurring as a result of employee negligence or non-compliance with this policy may result in disciplinary action up to and including termination.

No one shall be granted unattended access to Town computers, servers or network systems except an employee of Town, unless the person granted access is working as part of a formal vendor or support relationship with the Town.

### **6.18.a. Physical Security of Computers at Town Offices**

Every employee shall lock his or her computer if it is unattended and the employee expects to be out of sight of the computer or desk area.

Every employee expecting to be out for more than 90 minutes should shut down or log off the computer before leaving.

All employees must shut down their computers before leaving work for the day. The only exceptions to this rule are:

- an employee leaves for an appointment, expects to return, but does not;
- an emergency prevents an employee from shutting down prior to leaving; or
- IT Support requires the systems to remain on for some reason.

No employee passwords to access Town information systems shall be visible at any workstation. If a list of passwords is necessary, it shall be secured.

All computers shall be programmed with a screen saver “time out” of 20 minutes, requiring reentering a password to reactivate the computer. Employees shall not tamper with or change the screen saver “time out” programmed on their computer.

### **6.18.b. Physical Security of Computers Outside of Town Offices**

Any employee taking a Town computer outside of the office shall take all reasonable precautions to ensure the physical safety of the computer as well as to prevent unauthorized access to the computer. This shall include:

- never leaving a computer unattended or out of sight unless it has a cable lock attaching it to a piece of furniture or other item that is hard to move;
- never leaving a computer in an unlocked vehicle; and
- never leaving a computer, even in its bag, on the seat of a vehicle unless it is covered by another item to make it less obvious that it is a computer. It should be locked in the vehicle’s trunk.

A Town computer shall not be connected to an open, unsecured WiFi network when a secure WiFi is available. If an unsecure WiFi network must be used, the amount of time on it should be minimized. Confidential information of any kind shall not be accessed or transmitted on an open WiFi network.

### **6.18.c. Working at Home**

When an employee uses a Town computer to work at home, he or she must take precautions to prevent either advertent or inadvertent access to that computer or confidential information displayed on its screen(s) by other members of the household. These precautions shall include:

- locking or logging out of the computer whenever the employee is away from it;
- closing windows with confidential information when someone might see it; and
- turning the screen away from others in the room.

Home networks must be protected by a firewall between the network and the internet. Ideally, a Town computer should be connected to a home network with a physical (Ethernet) cable. When a home WiFi is used, that network shall be protected with a password or key and secured using appropriate WiFi security, preferably WPA or WPA2, or as determined by the Town employee in charge of IT and Communications. Use of WEP for WiFi security is not allowed when using Town computers to work at home.

#### **6.18.d. File Security**

Any files requiring that access be restricted to specific people or groups, must have their permissions set, or be placed in a folder which has its permissions set, to limit access to only those people or groups.

All employees should apply password protection for either opening or modifying any files that they create or have in their folders that they believe are sensitive, confidential or difficult to replace. All employees are required to have provided their Department Head with *all* passwords they use to protect *any* applications or documents created or stored on Town computers. These passwords will be given to the Town Manager's office by the Department Heads and the Town Manager's office will keep a master list.

### **6.19. Use of Mobile Communication Devices**

This Section provides uniform guidelines to employees of Town regarding the provision of, subsidization for, and use of Mobile Communication Devices, which include cell phones and other handheld portable electronic devices.

#### **6.19.a. General guidelines for provision of Mobile Communication Devices**

Certain Town employees are required to be accessible by phone due to the nature of their work. With the approval of the Town Manager, Department Heads may require these Town employees to maintain Mobile Communication Devices.

These employees, at the discretion of the Department Heads, may be provided with a Mobile Communication Device owned by the Town ("Town Owned Mobile Communication Device"). In these situations, the Town will determine the type of monthly plan necessary and will pay all the costs associated with the purchase of the phone and the type of plan. A Town Owned Mobile Communication Device is the property of the Town, and all content on that Device shall be subject to review and inspection by the employee's Department Head or the Town Manager. Upon separation from Town employment, a Town employee with a Town Owned Mobile Communication Device must return that Device to the Town.

As an alternative to the Town Owned Mobile Communication Device, Department Heads may request, if an employee is required to be accessible by Mobile Communication Device for business purposes, that an employee maintain his/her own Mobile Communication Device. If so, the Town may reimburse the employee \$30 per month to defray the cost of the phone (“Town Subsidized Mobile Communication Device”). The taxable reimbursement will be in accordance with IRS regulations. The reimbursement will occur automatically as long as the employee is required to use his/her device for business purposes.

#### **6.19.b. Employee responsibilities for usage**

Non-business use of a Town Owned Mobile Communication Device is permitted as long as that use is of minimal time and duration, does not impede the employee’s work responsibilities, does not result in additional cost to the Town, and does not violate applicable law or the Town of Shelburne Personnel Policy. Non-business use of a Town owned device shall be occasional, unusual in frequency, incidental or for emergencies. If the non-business usage of the Town Owned Mobile Communication Device results in a direct cost to the Town, it is the employee’s responsibility to reimburse the Town.

All usage of a Town Owned Mobile Communication Device shall be consistent with provisions of this Personnel Policy including, but not limited to, provisions related to Conduct of Employees, the Use of Town Computer System, and Use of Social Media.

A Town employee is not permitted to loan a Town Owned Mobile Communication Device to anyone other than to another Town employee.

A Town employee must immediately report the theft or loss of his/her Town Owned or Town Subsidized Mobile Communication Device to his/her supervisor or manager.

Use of Mobile Communication Devices in the course of Town business may not be used to defame, harass, intimidate or threaten any other person(s) and use of the device must comply with this Personnel Policy.

It is the policy of the Town to promote safe operation of vehicles by all Town employees by requiring adherence to all applicable driving laws, including the Vermont law governing the use of handheld portable electronic devices while operating motor vehicles, 23 V.S.A. § 1095b. As set forth in further detail below, the use of Mobile Communication Devices by Town employees while operating motor vehicles is prohibited.

**6.19.b.A. Use of Town Owned or Subsidized Mobile Communication Device While Operating a Motorized Vehicle Unless Parked in a Safe and Legal Location is Prohibited**

**6.19.b.B. Use of Any Mobile Communication Device While Operating Town Vehicle Unless Parked in a Safe and Legal Location is Prohibited**



**6.19.b.C. Conducting Town Business By Mobile Communication Device While Driving Prohibited**

**6.19.b.D. Exception to Prohibition for Hands Free Devices**

Notwithstanding the foregoing, if the Town employee is operating a motorized vehicle within the State of Vermont, the Town employee may use “hands free” technology to use the Mobile Communication Device while operating a motor vehicle so long as the device can be operated without the use of either hand by employing an internal feature of, or an attachment to, the device (*e.g.*, Bluetooth wireless transmission through the vehicle). Additionally, a Town employee may use the global positioning or navigation system of the Mobile Communication Device *if* the device is securely mounted in the vehicle where the device will remain stationary under typical driving conditions.

This exception for hands free devices applies to operation of vehicles within the State of Vermont. When a Town employee is operating a vehicle in a state other than the State of Vermont, the laws governing the use of Mobile Communication Devices during the operation of a motor vehicle in that state may restrict the use of hands free devices. Town employees shall comply with applicable state laws where the state laws are more restrictive than the provisions of 23 V.S.A. § 1095b and this Policy. In states where the laws governing the use of handheld devices during the operation of a motor vehicle are less restrictive than 23 V.S.A. § 1095b and the provisions of this Policy, Town employees shall abide by the provisions of this Policy.

**6.19.c. Penalties for Violation of the Section**

Employees who violate this Section of the Personnel Policy shall be subject to discipline, up to and including termination. Additionally, employees who are charged with traffic violations resulting from: use of a Town Owned or Town Subsidized Mobile Communication Device while driving; the use of a Mobile Communication Device while operating a Town vehicle or Town machinery; or use of a Mobile Communication Device to conduct Town business while driving will be solely responsible for all liabilities that result from such actions.

**6.20. Use of Recording Devices in the Workplace**

The Town limits use of personal cameras, camera phones, tape recorders or other recording devices in the workplace as a preventative step believed necessary to secure employee privacy and other business information.

Employees are prohibited from using cameras or other video or audio recording devices in the workplace without the expressed consent of all persons involved. All parties to a meeting or conversation that is to be recorded must have been informed at its outset that it will be monitored, transcribed, intercepted, or recorded, and they have consented to such actions prior to

the conversation. Police Department body-worn cameras being utilized for law enforcement purposes are exempt from this policy.

The Town reserves the right to use cameras and recording devices for surveillance of Town property and for the official business of committees, boards and commissions.

### **6.21. Use of Social Media**

The term “Social Media” refers to online applications and mobile-based tools that facilitate the sharing of information, interactivity, and communication amongst individuals, groups, organizations, and the government through digital transmissions. These tools currently include social networks, blogs, video sharing, podcasts, wikis, message boards, Front Porch Forum, and other online forums. Currently available technologies include picture and video sharing, and wall postings. This policy covers all Social Media tools, both existing and to be developed.

Employee use of Social Media can occur in an official capacity, where the employee is specifically authorized to speak on behalf of the Town in a Social Media forum; or in a personal capacity, where the employee is not specifically authorized to speak on behalf of the Town.

For the Town of Shelburne Policy on Social Media covering employee use of Social Media in an official capacity and use of Town Social Media Sites by the public, please refer to the Town of Shelburne Social Media Policy.

#### **Town Employee Use of Social Media in a Personal Capacity**

While employees may engage in any lawful activities through Social Media (including exercising any rights they may have to engage in protected concerted activity or political activities), any employee who chooses to use Social Media should be aware of the following Town policies in this regard:

- a. Any conduct, which under the law or Town policy is impermissible if expressed in any other form, is impermissible if expressed through Social Media.
- b. Employees are held responsible for their own content expressed through Social Media and will be expected to communicate in a professional and lawful manner at all times.
- c. Employees who use Social Media shall not post any proprietary Town data, documents or photographs or any information which would violate any privacy laws applicable to the Town, regardless of whether the posting is done during working or non-working time. Any information that cannot be disclosed through a conversation, a memo or an e-mail also cannot be disclosed through Social Media.
- d. Unless authorized in writing as set forth in the Town’s Social Media Policy, employees do not have permission to speak on behalf of the Town via Social Media.

- e. While communicating through Social Media, if an employee posts any content that has something to do with the work they perform for the Town or subjects associated with the business of the Town, employees must make clear that they are speaking for themselves and not on behalf of the Town by accompanying their posts with a disclaimer such as: “The postings on this site are my own and do not necessarily represent the Town’s positions or opinions.”
- f. Employees are not permitted to use a Town email address to establish a personal Social Media account.

When an employee’s use of any Social Media violates the law or any Town policies (including policies pertaining to employee misconduct or job performance), appropriate discipline up to and including termination of employment will be imposed, regardless of when the information was posted or sent and regardless of the tools or site used to post or send such information. Nothing in this section (or any other Town policy) will be implemented or should be interpreted in any manner so as to prohibit or inhibit employees from engaging in any lawful activities through Social Media, including exercising any rights they may have to engage in protected concerted activity or political activities. Additionally, nothing in this section will be implemented or should be interpreted in any manner so as to infringe upon employee social media privacy interests. The Town, and all Department Heads and supervisors, will refrain from any conduct that would violate Vermont law protecting employee personal social media use.

## **Section 7: Performance Evaluations**

The Town has a performance evaluation process whereby each employee is evaluated by his/her supervisor and/or Department Head on at least an annual basis. More frequent evaluations are encouraged and may be done on a periodic basis by particular departments. The primary purpose of the evaluation is to discuss formally the performance objectives for each employee, discuss areas of strong performance and areas that may need improvement, develop a plan of action for meeting goals and objectives, and for establishing a dialogue between the employee and his/her supervisors to discuss the department, the employee’s performance, and related issues. The evaluation process will be developed by the Town manager and may be changed from time to time at his/her sole discretion.

## **Section 8: Employee Benefits**

### **8.1. *Eligibility for Benefits***

The town offers a comprehensive benefits package for the benefit of its eligible Full-Time Employees and for eligible Part-Time Employees as follows:

Part-Time Employees who are regularly scheduled to work year-round at least 20 hours a week may elect to participate in the aforementioned benefits on a prorated basis, subject to the eligibility requirements of the insurance carrier or other benefit provider. The Town will pay a

proportionate share of the cost of the benefit programs based on the ratio of work hours per week to 40 work hours per week. The employee is responsible for the balance.

Information about group insurance and other benefits are included as Addendum B to this Policy. Additionally, further details are available in the Town Manager's office.

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

## **8.2. *Holidays and Personal Leave***

Full-Time Employees are entitled to up to three days of personal leave per year. Eligible Part-Time Employees are entitled to a pro-rated amount based on their regularly scheduled number of work hours. Personal leave may be taken subject to as much advance notice as possible and approval by the Department Head.

Additionally, eligible Full- and Part-Time Employees will receive the following paid holiday leave:

- New Year's Day (January 1)
- Martin Luther King, Jr. Day (third Monday in January)
- Presidents Day (3<sup>rd</sup> Monday in February)
- Memorial Day (last Monday in May)
- Independence Day (July 4)
- Bennington Battle Day (August 16)
- Labor Day (1<sup>st</sup> Monday in September)
- Columbus Day (second Monday in October)
- Veterans' Day (November 11)
- Thanksgiving Day (4<sup>th</sup> Thursday in November)
- Day after Thanksgiving (4<sup>th</sup> Friday in November)
- Christmas Day (December 25)

Eligible employees will receive holiday leave pay for the number of hours in the employee's typical work day on which the holiday falls, at the employee's regular rate of pay. Eligible Part-Time employees will receive prorated holiday leave pay based on the number of hours the employee is regularly scheduled to work. Holidays that are not actually worked by an employee are not included as hours worked in calculating overtime for that week for that employee.

Holidays falling on a Saturday will be observed the preceding Friday. Holidays falling on a Sunday will be observed the following Monday. Holidays that fall during an employee's vacation leave will not be charged as vacation leave.

An employee who wishes to work on a holiday and does not receive “holiday pay” (as described in the Compensation section of this Policy) may, with the pre-approval of their Department Head, take an alternate day off, referred to as a “flex holiday”. The use of flex holidays is subject to the following:

- An employee may not take a flex holiday off until he/she has been in the Town’s service for at least thirty (30) days.
- The employee may not accrue more than three alternate holidays and such alternate holidays must be used by the March 31 immediately following the calendar year in which they are earned or they will be lost. Holidays earned in one calendar year will not carry forward beyond March 31 of the next calendar year.

Employees who wish to observe religious holidays which fall on a normal work day are encouraged to plan for earning and using flex holidays or personal leave for that purpose. Any further need for accommodation in this regard should be communicated to the Department Head or Town Manager.

Accrued but unused flex holidays and unused personal leave are not subject to payment upon separation from service.

### **8.3. *Vacation Leave***

It is the policy of the Town of Shelburne to encourage every employee to take some time away from work at least once every year to relax and enjoy the leisure time that has been earned.

Full-Time Employees will accrue vacation at the following rates, based on a 40-hour work week. Eligible Part-Time Employees will accrue vacation on a pro-rated basis based on the number of hours the employee is regularly scheduled to work.

<u>Years of Service</u>	<u>Hours Per Month</u>
Date of hire until 5 <sup>th</sup> anniversary of date of hire	8 hours
Beyond 5 <sup>th</sup> anniversary of date of hire until 10 <sup>th</sup> anniversary	10.6 hours
Beyond 10 <sup>th</sup> anniversary of date of hire	13.2 hours

Vacation leave accrual is calculated from the date of hire, accrues monthly, and is credited at the end of the month. However, an employee may not take vacation during their Probationary Period without prior approval of Town Manager. An increase in the annual rate of accrual of vacation time will occur based on the above schedule upon the anniversary of the date of hire. Leave must be taken in increments of at least one-hour.

Employees are strongly encouraged to take an annual vacation. Vacation scheduling in each department is the responsibility of Department Heads. Approval of vacation requests is subject to Department Head discretion to manage departmental operations; preference shall be given to seniority when there are conflicting employee requests. Department Heads shall submit vacation requests to the Town Manager. Employees should provide as much notice as possible and are

expected to submit a vacation request for consideration a minimum of 2 weeks in advance unless a department has a standard greater than this.

After the first year of employment, employees are strongly encouraged to use a minimum of five (5) days (i.e. 40 hours for Full-Time Employees; pro-rated hours for Part-Time Employees) of accrued vacation each calendar year. The remainder may be carried forward and accrued up to a maximum vacation leave balance of thirty (30) days (i.e. 240 hours for Full-Time Employees; pro-rated hours for Part-Time Employees based on their regularly scheduled hours per week). Vacation time off may not be taken in larger than three-week intervals consecutively over a three-month period unless given an exception by the Department Head and Town Manager.

When a regular holiday falls during a scheduled vacation period, the day will be charged as a holiday, not as vacation time, taken.

When an eligible employee exhausts their available sick leave, accrued vacation time may be used if the employee is unable to work by virtue of layoff, illness, accident, or other reasons permitted under 21 V.S.A. § 472, the Vermont Parental and Family Leave Act.

An employee who resigns from employment with the Town will be compensated for unused, accrued vacation leave, with the exception that any employee who terminates during their Probationary Period, is terminated for just cause, or who abandons their position will not be entitled to compensation for any accrued vacation time.

## **8.4. Sick Leave**

### Definition

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

Eligible Full-Time Employees will earn sick leave in the amounts listed below (based on an 8-hour work day five days per week.) Eligible Part-Time Employees will earn a pro-rated amount based on the number of hours they are regularly scheduled to work.

<u>Years of Service</u>	<u>Hours Per Month</u>
Date of hire until 5 <sup>th</sup> anniversary of date of hire	8 hours
Beyond 5 <sup>th</sup> anniversary of date of hire	12 hours

Full-Time Employees may carryover unused sick leave from year to year up to a maximum of 90 days (720 hours); the maximum hours limit is pro-rated for Part-Time Employees.

Any employee who has accumulated a total of 60 sick leave days may convert additional days to annual leave days as follows”

2 sick days                      TO                      1 vacation day

Up to 10 additional annual leave days may be obtained through conversion per year.

#### Use of Sick Leave

Eligible employees must use paid leave in increments no smaller than one half hour.

An employee may use sick leave for the purposes below:

- The employee is ill or injured.
- The employee obtains professional diagnostic, preventive, routine, or therapeutic health care.
- The employee cares for a sick or injured Close Relative or child/adult/pet in their care including helping that individual obtain diagnostic, preventive, routine, or therapeutic health treatment, or accompanying the employee’s Close Relative or child/adult/pet in their care to an appointment related to his or her long-term care.
- The employee is arranging for social or legal services or obtaining medical care or counseling for the employee or for the employee’s parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child, who is a victim of domestic violence, sexual assault, or stalking or who is relocating as the result of domestic violence, sexual assault, or stalking. As used in this section, “domestic violence,” “sexual assault,” and “stalking” shall have the same meanings as in 15 V.S.A. § 1151.
- The employee cares for a parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child, because the school or business where that individual is normally located during the employee’s workday is closed for public health or safety reasons.
- The employee needs more than the allotted bereavement time for a death in the immediate family as defined in Bereavement section; a maximum of ten (10) sick days may be granted per occurrence unless additional time is granted by the Town Manager.

If an employee cannot report for work, he/she must notify his/her supervisor as far in advance or normal working hours as possible.

Employees must make reasonable efforts to avoid scheduling routine or preventive health care or other appointments during regular work hours. An employee whose absence for reasons of illness extends beyond three (3) consecutive working days, may be required to provide the Department Head with a statement from a physician or licensed health practitioner attesting to the employee’s inability to work.

Use of this paid leave does not diminish the rights that an employee may have under the Vermont Parental Family Leave Act, 21 V.S.A. § 470.

In special circumstances, employees may donate up to 10 days of their sick leave to another employee with the approval of the Town Manager. A maximum of (60) days per occurrence may be donated to an employee, after which the employee must utilize the long-term disability program. Any unused donated sick leave will be returned to the employees who donated on a pro-rata basis.

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

### **8.5. Bereavement**

Employees shall be entitled to up to five (5) paid bereavement leave days per occurrence (pro-rated for Eligible Part-Time Employees) related to the death of an employee's Close Relative. Ten (10) days for the death of a spouse or significant other. Upon the death of a coworker, employees shall be allowed time off with pay to attend visiting hours or funeral.

The exact amount of time off is dependent upon the circumstances and subject to supervisor approval. An employee may use accrued sick or vacation leave for additional time needed, subject to approval by the Department Head and Town Manager. See preceding Sick Leave Section.

If additional time off is needed, or if time off is needed for the funeral of a friend or a relative who is not an immediate family member as defined above nor a member of the employee's immediate household, the employee's Department Head and Town Manager may grant, on a case-by-case basis, the use of a reasonable amount of time. The amount of such time off, if approved, will depend upon the individual circumstances such as the distance to be traveled, closeness of the employee's relationship with the person who died or his/her family, and the employee's level of responsibility in making funeral or other arrangements.

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

### **8.6. Parental and Family Leave**

Eligible employees may receive leave as described in the Family and Medical Leave Act, 29 U.S.C. §§ 2601 and 2611 *et seq.* (FMLA), and Vermont Parental and Family Leave Act, 21 V.S.A. § 470 *et seq.* (VPFLA). These federal and state laws will determine employee eligibility, the qualifying reasons for such leave and the length of leave.

The Town reserves the right to designate any qualifying leave of absence granted under this policy as leave under FMLA or the VPFLA. A request for leave must be made to the Town Manager or Acting Town Manager within a reasonable time in advance, and shall include, when possible, the estimated duration. In the case of serious illness of the employee or a member of the employee's family, the Town Manager may require certification from a physician to verify the condition and the amount and necessity for the leave requested. Where an employee's leave request is covered by the VPFLA and the FMLA, the Town will adhere to the law that provides



the most benefits to the employee. If an employee is entitled to leave under both the VPFLA and FMLA, the leave periods will run concurrently.

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

### **8.7. *Short Term Family Leave***

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

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

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

### **8.8. *Leave of Absence Without Pay***

In accordance with 21 V.S.A. § 472b, an employee may take unpaid leave from employment for the purpose of attending their Town Meeting. A request to take unpaid leave from employment for the purpose of attending their Town Meeting must be made to the employee's supervisor at least seven days prior to the date of the town meeting. Such leave will be granted provided it does not cause an interruption of the essential operation of the Town.

The Town Manager, with the concurrence of the appropriate Department Head, may authorize other unpaid leaves of absence based on exceptional circumstances. During such leave, some employee benefits may be preserved at the Town Manager's sole discretion. The Town may fill the absent employee's position by temporary appointment.

Each such individually approved position shall be open for the return of the employee for a period of up to two years in the case of a worker's compensation injury or for up to one year in the case of illness or injury not caused in the line of duty or other reasons as approved by the Department Head and Town Manager.

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

### **8.9. *Military Leave***

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

### **8.10. *Court/Jury Leave***

The Town will compensate employees at their regular hourly rate for their service as jurors or witnesses when compelled by the court and unrelated to their status as a Town employee. Payments by the Town shall be reduced to the extent of any amount received as compensation for jury duty or appearance as a witness. In accordance with 21 V.S.A. § 499, employees will otherwise be considered in the service of the Town for purposes of determining seniority, benefits, credit towards vacations, sick leave, and other rights, privileges, and benefits of employment.

When Town employees are called to serve as a witness in a court proceeding due to their status as an employee of the Town, the Town will compensate the employee for the difference between their regular rate of pay and their compensation as a witness. The Town will pay the difference only when the employees' regular rate of pay exceeds their compensation as a witness.

An individual taking Court/Jury leave shall be required to submit documentation of their service and any pay received from the Court.

## **Section 9: Compensation**

### **9.1. *Pay and Classification Plan***

The Town Manager, with consent of the Selectboard, may award pay increases on an annual basis based on one or all of the following factors: (1) employee's job performance; (2) length of service with the Town; and (3) the increase in the cost of living in the area, using generally accepted sources for determining fair cost of living adjustments.

Employees whose positions assume significantly more responsibility and authority during the course of a year shall have their positions evaluated by their Department Head and the Town Manager. If found to be warranted, the position shall be reclassified and necessary adjustments made.

When new positions are created and approved, a job description will be prepared by the Department Head and submitted to the Town Manager for approval.

Job descriptions shall be maintained for all Town positions. These may be reviewed annually by the employee and Department Head with updates submitted to the Town Manager for approval.

## **9.2. *Overtime and Compensatory Time (Comp Time) Off***

Exempt Employees are those who meet certain requirements and qualify for an administrative, professional, or executive exemption, as defined by law, and are thus not covered by the Fair Labor Standards Act. It is implicit in the nature of such positions that the requirements of these jobs frequently exceed the hours of the normal workweek. With prior Department Head approval, there may be certain occasions when work hours may be adjusted to allow an Exempt Employee to attend an appointment or to make up for an extensive period of working unusually long hours.

In accordance with the federal Fair Labor Standards Act, the Town compensates Non-Exempt Employees at the rate of one and one-half hours for each authorized hour actually worked in excess of forty hours in any workweek. Concerning overtime hours, Department Heads shall be responsible for ensuring compliance with the following procedures:

- With the exception of unforeseeable circumstances, all Non-Exempt Employees shall notify Department Heads or, if none, the Town Manager, in advance of the need to perform overtime work. Working overtime without such pre-authorization may subject the employee to disciplinary action, up to and including termination.
- Each Non-Exempt Employees shall, within the pay period in which overtime work is performed, notify his/her Department Head of the amount of overtime work performed.
- If a Non-Exempt Employees is called back to work after the normal work day has ended, or before his/her next regular work day, he/she will receive no less than three (3) hours at the rate of one and one-half times his/her regular pay rate. This policy will be applicable to all call-back situations on a per occurrence basis.
- There will be an equitable distribution of scheduled overtime work among members of a department.

In place of overtime pay, the Town in its discretion may provide Non-Exempt Employees with Comp Time subject to the following conditions:

- Comp Time for Non-Exempt Employees is earned at a rate of one and one half hours for each hour worked in excess of forty hours actually worked in any workweek.

- A Non-Exempt Employee may accrue a maximum of 60 hours of comp time. An employee who has accrued 60 hours of comp time will be paid overtime compensation for additional overtime hours of work. Exempt Employees do not receive overtime pay.
- For Non-Exempt Employees who regularly work fewer than 40 hours per week, Comp Time will be given on an hour for hour basis for each hour worked above their regular weekly work schedule up to 40 hours. They will be awarded Comp Time or overtime pay at a rate of one and one-half times their regular rate only if their work hours exceed 40 in a work week.
- An employee may, at the Town Manager's discretion, be paid for overtime in lieu of Comp Time off.
- An employee receiving payment for accrued Comp Time will be paid at the regular rate of pay earned by the employee at the time the employee receives such payment.
- Upon termination from employment, a Non-Exempt Employee will be paid for unused Comp Time at an employee's final regular rate of pay.

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

A listing of exempt and non-exempt positions shall be maintained in the office of the Town Manager.

### **9.3. *On-Call Pay***

It is recognized that certain jobs and departments may require employees to be on-call and readily available after hours and on weekends to handle emergency situations. Employees who are officially on-call are expected to respond in a prompt fashion to emergency situations. In return, employees on-call shall be compensated a flat amount on a weekly basis for the period in which they are required to be on-call. The amount will be established by the Town Manager. More specific and detailed on-call policies may be adopted by individual departments upon approval of the Town Manager.

### **9.4. *Holiday Compensation for Non-Exempt Employees***

A Non-Exempt Employee who is required by the Town to work a holiday listed in the Holiday Leave section of this policy, shall be compensated at the rate of two (2) times their regular hourly rate for hours worked in addition to regular pay for the holiday itself.

### **9.5. *Damaged Personal Property***

In rare instances, the Town may reimburse an employee for personal property damaged, provided that the damage was in no way caused by the negligence of the employee and adequate proof is provided that the damage was incurred in the performance of job functions. Approval is at the discretion of the Town Manager.

The amount of reimbursement from the Town shall be reduced by any reimbursement the employee receives from other sources.

### **9.6. *Mileage Reimbursement***

Employees who are authorized to use their personal vehicles for Town business will receive mileage reimbursement at the prevailing federal mileage rate. The use of personal vehicles must be authorized by the Department Head. Mileage reimbursement will be paid on a monthly basis based upon the timely submission of a mileage reimbursement form.

## **Section 10: Harassment**

### **10.1. *Employment Harassment and Discrimination***

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

Examples of harassment include, but are not limited to, the following: insulting comments or references based on a person's race, color, religion, sex, gender identity, marital status, national origin, age, pregnancy, genetic information, veteran status, disability, sexual orientation, ancestry, HIV status, place of birth; aggressive bullying behaviors; inappropriate physical contact or gestures, physical assaults or contact that substantially interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment; retaliation against an employee for complaining about the behaviors described above or for participating in an investigation of a complaint of harassment.

To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people.

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

All employees, supervisors, and other management personnel, are expected and required to abide by this policy. Employees who are found to have engaged in harassment may face disciplinary

action up to and including termination. Any individual who believes that she or he has been the target of this type of harassment, is encouraged to report it.

Any employee who wishes to report harassment should file a complaint with one of the following individuals: your supervisor, the Town Manager, Chair of the Selectboard, or Vice Chair of the Selectboard. The names, addresses, and telephone numbers of the Chair and Vice Chair may be found on the Town website at [www.shelburnevt.org](http://www.shelburnevt.org) under “Government.”

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

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

Vermont Attorney General’s Office  
Civil Rights Division  
109 State Street  
Montpelier, VT 05609-1001  
Tel: (802) 828-3657 (voice)  
Toll-Free: (888) 745-9195  
TTY: (802) 828-3665  
Email: [civilrights@atg.state.vt.us](mailto:civilrights@atg.state.vt.us)

Equal Employment Opportunity Commission  
JFK Federal Building  
475 Government Center  
Boston, MA 02203  
Tel: 1-800 669-4000 (voice)  
1-800-669-6820 (TTY).

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

## **10.2. *Sexual Harassment***

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

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

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

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

- either explicitly or implicitly conditioning any term of employment (e.g., continued employment, wages, evaluation, advancement, assigned duties or shifts) on the provision of sexual favors;
- touching or grabbing a sexual part of an individual's body;
- whistling, gesturing, or staring in a suggestive manner that is unwelcome;
- touching or grabbing any part of an individual's body after that party has indicated, or it is known, that such physical contact was unwelcome;
- continuing to ask an individual to socialize on or off-duty when that person has indicated he/she is not interested;
- displaying or transmitting sexually suggestive pictures, objects, cartoons or posters;
- continuing to write sexually suggestive notes or letters;
- referring to or calling a person a sexualized name;
- regularly telling sexual jokes or using sexually vulgar or explicit language;
- retaliation of any kind for having filed or supported a complaint of sexual harassment (e.g., ostracizing the person, pressuring the person to drop or not support the complaint, adversely altering that person's duties or work environment, etc.);
- derogatory or provoking remarks about or relating to an employee's sex;
- harassing acts or behavior directed against a person on the basis of his or her sex;
- off-duty conduct which falls within the above definition and affects the work environment.

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

Any individual who believes that she or he has been the target of sexual harassment, or who believes she or he has been subjected to retaliation for having brought or supported a complaint of harassment, is encouraged to directly inform the offending person or persons that such conduct is offensive and must stop. This exchange should be documented.

Employees who are found to have engaged in sexual harassment may face disciplinary action up to and including termination.

Any employee who wishes to report sexual harassment should file a complaint with one of the following individuals: your supervisor, the Town Manager, Chair of the Selectboard, or Vice Chair of the Selectboard. The names, addresses, and telephone numbers of the Chair and Vice Chair may be found on the Town website at [www.shelburnevt.org](http://www.shelburnevt.org) under “Government.”

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

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

Vermont Attorney General’s Office  
Civil Rights Division  
109 State Street  
Montpelier, VT 05609-1001  
Tel: (802) 828-3657 (voice)  
Toll-Free: (888) 745-9195  
TTY: (802) 828-3665  
Email: [civilrights@atg.state.vt.us](mailto:civilrights@atg.state.vt.us)

Equal Employment Opportunity Commission  
JFK Federal Building  
475 Government Center  
Boston, MA 02203  
Tel: 1-800-669-4000 (voice)  
1-800-669-6820 (TTY).

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

## **Section 11: Employee Discipline**

With the exception of those employees who have a written contract of employment with the Town, employment by the Town of Shelburne is *at-will* and not for any definite period or succession of periods of time. The Town or the employee may terminate the employment relationship at any time, with or without notice, for any reason, and without a hearing, unless otherwise agreed in writing by the Town and the employee or the certified bargaining representative for a group of employees or as otherwise provided by law.

To provide the Town with discretionary flexibility to address employee and employment-related problems, the Town of Shelburne has adopted a progressive discipline process to identify and address these problems. The Town’s progressive discipline process applies to any and all



employee conduct that the Town, in its sole discretion, determines should be addressed by the progressive discipline process.

Under the Town's progressive discipline process, an employee may be subject to disciplinary action, up to and including termination, for violation of the provisions of this Personnel Policy and/or failure to maintain an acceptable level of performance. The Town may take prior disciplinary action into consideration when disciplining or terminating an employee. Violations of different rules may be treated as repeated violations of the same rule for purposes of progressive discipline.

Most often, employee conduct that warrants discipline results from unacceptable behavior, poor performance, or violation of the Town's policies, practices, or procedures. However, discipline may be issued for conduct that falls outside of those identified areas. The Town also reserves the right to impose discipline for off-duty conduct that adversely impacts the legitimate interests of the Town. The Town reserves the right in its sole discretion to bypass progressive discipline and to take whatever action it deems necessary to address the issue at hand. This means that more or less severe discipline, up to and including termination, may be imposed in a given situation at the Town's sole discretion.

The Town Manager, in consultation with the Department Head, will normally adhere to the following progressive disciplinary process, but reserves the right to bypass any or all steps of progressive discipline when he/she determines, in his/her sole discretion, that deviation from the process is warranted:

- (1) Verbal warning - a verbal warning from the supervisor or Department Head notifying the employee of conduct considered inappropriate, or action that is lacking or needs improvement, and the actions and procedures necessary to improve.
- (2) Written warning - a written statement, signed by the supervisor and Department Head, notifying the employee of conduct considered objectionable, or action that is lacking or needs improvement, and the actions and procedures necessary to improve, specifying that recurrence of the same or similar activity or lack of activity will result in more severe disciplinary action. The reprimand shall be filed in the employee's personnel file;
- (3) Suspension with or without pay - the temporary removal of an employee from the performance of job functions due to negative conduct of great significance or unresponsiveness to multiple written warnings; a suspended employee shall remain on the active roster of regular Town employees for the purposes of accrual of benefits.
- (4) Demotion - the reduction of an employee's rate of pay limited to a maximum of ten (10) percent of an employee's annual wages or salary within the past consecutive twelve (12) month period of employment due to negative conduct of great significance or unresponsiveness to suspension;
- (5) Dismissal - the termination of an employee's working relationship with the Town, subject only to the payment of accrued earnings or applicable benefits due to negative conduct of great significance or unresponsiveness to levels of discipline above.

Employees are prohibited from engaging in conduct listed below and may receive discipline, up to and including termination, for doing so. This list has been established to provide examples of

behavior that could warrant a range of disciplinary sanctions. Appropriate levels of discipline may be based on the severity of employee conduct. **This list is not exhaustive.**

- Engaging in any illegal activity.
- Inability to cooperate with and perform job tasks with fellow employees, supervisor, or Department Head.
- Lack of productivity, failure to effectively perform job duties, inefficiency, or incompetency.
- Being inattentive to duty, including sleeping on the job.
- Falsifying information on documents such as a job application or time card or other record or giving false information to anyone whose duty is to make such record.
- Being repeatedly or continuously absent or late, being absent without notice or satisfactory reason or leaving one's work assignment without appropriate authorization, or job abandonment.
- Conducting oneself in any manner that is offensive, abusive, threatening, or contrary to reasonable community standards and expectations of public employees.
- Engaging in any form of harassment including sexual harassment.
- Misusing, misappropriating, or willfully neglecting Town property, funds, materials, equipment or supplies.
- Unlawfully distributing, selling, possessing, using or being under the influence of alcohol or drugs when on the job or subject to duty.
- Fighting, engaging in horseplay or acting in any manner which endangers the safety of oneself or others. This includes acts of violence as well as threats of violence.
- Stealing or possessing without authority any equipment, tools, materials or other property of the Town or attempting to remove them from the premises without approval or permission from the appropriate authority.
- Marking or defacing walls, fixtures, equipment, tools, materials or other Town property, or willfully damaging or destroying property in any way.
- Inappropriate use of a Mobile Communication Device while operating a vehicle.
- Inappropriate use of a recording device.
- Inappropriate use of Social Media.
- Willful violation of Town rules or policies.

## **Section 12: Grievance Procedures**

In the matter of grievances affecting the employee's work or conditions of employment, any regular or probationary employee shall have the right to make the employee's grievances known to the proper authority in the following manner:

- a) Within forty-eight (48) hours of the occurrence of a grievance, the employee shall submit the grievance in writing to the employee's immediate supervisor.
- b) The immediate supervisor of the aggrieved employee shall, within forty-eight (48) hours of receipt of the grievance, discuss the grievance and findings with the aggrieved employee. The supervisor shall, within three (3) working days of the discussion, submit the supervisor's answer in writing to the aggrieved employee. If the issue being grieved is not resolved, the employee

may file a request to have the Department Head consider the grievance. Such request must be made within forty-eight (48) hours of receipt of the supervisor's decision.

c) The Department Head shall meet with the supervisor and the aggrieved employee within three (3) working days of receipt of the grievance from the employee. The Department Head shall submit the Department Head's answer in writing to the aggrieved employee within five (5) working days after the meeting. If no solution to the grievance can be reached by the Department Head, the matter shall be submitted in writing to the Town Manager by the Department Head. If the issue is not resolved, the employee may file a written request to have the grievance heard by the Town Manager within five (5) working days of the Department Head's decision.

d) The Town Manager shall, within five (5) working days of receipt of the request for hearing, arrange a meeting with the Department Head, supervisor, and the aggrieved employee to hear the grievance. The Town Manager shall, within ten (10) working days after the meeting, submit the Manager's answer in writing to the aggrieved employee and the Department Head. The method and manner of conducting a hearing relative to grievances shall be at the sole discretion of the Town Manager.

e) If, following the answer of the Town Manager, no satisfactory solution to the grievance has been achieved, the employee may then request a hearing before the Selectboard by written notice delivered to the Town Manager within five (5) working days after receipt of the answer from the Town Manager. Within five (5) working days after receipt of the employee's request for a Selectboard hearing, the Town Manager shall schedule a meeting of the Selectboard. The meeting of the Selectboard shall be held within a reasonable time after the expiration of said five (5) working day period.

f) The employee, while appearing before the Selectboard, has the right to be represented by counsel, at his/her own cost, and to present any material, witnesses, or evidence helpful to the employee's case. The administration has similar rights. The decision of the Selectboard shall be final.

g) Working days, when used in this section, shall mean Monday through Friday inclusive, excluding Saturdays and Sundays and days on which the Town Office building is closed.

## **Section 13: Separation from Employment**

### **13.1. Resignation**

Any employee may resign from employment with the Town at any time by submitting a written letter of resignation to the Department Head and Town Manager. Employees are asked to submit at least a two-week notice of their resignation.

### **13.2. *Exit Interview***

Employees who leave employment with the Town may be offered or may request a confidential exit interview with the Town Manager or his/her designee. The purpose is to give the employee an opportunity to discuss their employment with the Town and suggest improvements.

### **13.3. *Layoffs and Reductions***

Any Town employee may be laid off whenever it is necessary to reduce the number of employees in any department due to a change in the function or organization of the department, financial restrictions, changes in work demands, elimination of job categories, or any other reason deemed to be appropriate by the Town Manager and/or Selectboard. The Town also retains the right to unilaterally eliminate positions or reduce the work hours of a position or positions due to economic conditions, shortage of work, organizational efficiency, changes in departmental functions, reorganization or reclassification of positions resulting in the elimination of a position or for other reasons.

### **13.4. *Payment and Benefits at Separation***

Upon an employee's separation from service with the Town in good standing, an employee shall be reimbursed for accrued but unused Comp Time and vacation time except that Exempt Employees shall only receive payment for Comp Time if it was earned when they occupied a Non-Exempt Employee position.

Compensation for accrued but unused vacation shall be at the final rate of pay.

Upon termination or resignation, an employee will receive two (2) checks as follows:

- one for the completed work week;
- one for accrued but unused leave time, as applicable (see first paragraph of 13.4).

However, upon prior mutual agreement between the separating employee and the Town Manager, the accrued leave payment may be spread out over a period of weeks.

In addition to the above provisions, laid off employees who were hired by the Town prior to March 31, 1984, will be entitled to reimbursement of up to sixty (60) days for sick leave that was earned but not previously taken by the employee. This reimbursement shall be computed at a rate equal to the average daily wage of the employee during the final twelve (12) months of employment with the Town. No reimbursement will be given where an employee is terminated from the Town by means other than retirement or resignation.

### **13.5. *COBRA Rights***

Individual employees terminating employment who have health insurance through the Town are entitled to continue their health care benefits under the terms of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1986.

### **13.6. *Employee Termination Process***

The Town of Shelburne has adopted an employment termination process. Most often, employee conduct that warrants termination results from unacceptable behavior, poor performance, or violation of the Town's policies, practices, or procedures. However, termination may result from conduct that falls outside of those identified areas. The Town need not utilize this termination process but may take whatever action it deems necessary to address the issue at hand.

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

Probationary and laid off employees are not subject to, and thus can be terminated without use of, the termination process. Employees who are not employed pursuant to a written contract are also not subject to the Town's termination process. Notwithstanding any other provision of this policy, an employee terminated during the Probationary Period, those laid off, and those not subject to a written contract will have no right to appeal such termination.

An employee who has been elected, has been appointed by an elected official, or has a written employment contract and who is being considered for termination must be provided with written notice. The notice will contain a brief statement of the reasons termination is being considered and the date, time and place of a pre-termination meeting with the employee's supervisor.

At the pre-termination meeting, the employee will be afforded an opportunity to present the employee's response to the reasons for termination. If the employee declines to attend the pre-termination meeting, the employee must submit a written response to the pre-termination notice not later than the scheduled date of the meeting. A failure by the employee to attend the pre-termination meeting or to submit a written response to the pre-termination notice will be construed as a waiver of the opportunity to respond.

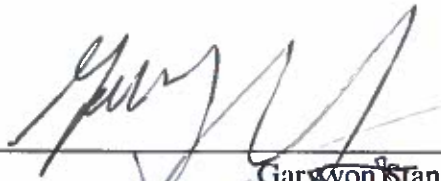
Within seven (7) calendar days of the date of the meeting, the supervisor will provide the employee with a written notice informing the employee whether he/she has been terminated. If the employee has been terminated, the notice will provide the general reasons therefore and will also inform the employee of the opportunity to request a post-termination hearing before the Selectboard by giving written notice of such request to the supervisor within (7) seven calendar days. The employee will be informed that the employee's failure to make a timely request for a post-termination hearing will result in such hearing being waived.

If a request for a post-termination hearing is made, the Selectboard will provide the employee with a notice informing the employee of the date, time, and place of the post-termination hearing before the Selectboard. The notice will inform the employee of his or her right to be represented by counsel, at his/her own cost, to present and cross-examine witnesses and to offer supporting documents and evidence.

## Section 15: Selectboard Adoption

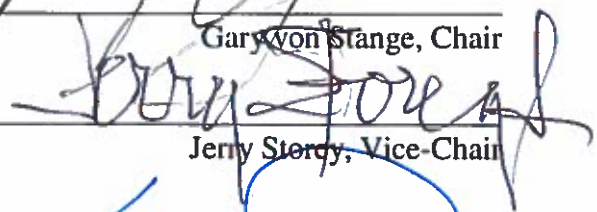
ADOPTED this 27<sup>th</sup> day of FEBRUARY, 2018.

SIGNATURES of SELECTBOARD:



\_\_\_\_\_

Gary von Stange, Chair



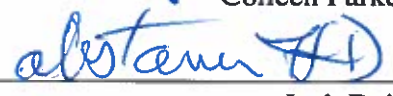
\_\_\_\_\_

Jerry Stordy, Vice-Chair



\_\_\_\_\_

Colleen Parker



\_\_\_\_\_

Josh Dein

\_\_\_\_\_

Jaime Heins

## **Addendum A**

### **Acknowledgement of Receipt of Personnel Policy**

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

- A. I received a copy of the Town's Personnel Policy on \_\_\_\_\_.
- B. I agree to familiarize myself with the contents of the Personnel Policy.
- C. I understand that it is my responsibility to ask questions of my supervisor or the Human Resources Coordinator if there is anything in the policy that I do not understand;
- D. I understand that the language used in this Personnel Policy is not intended to create, nor should it be construed to create, a contract of employment between myself and the Town; and
- E. I acknowledge that this Personnel Policy replaces any and all prior versions and that the Town reserves the right to add, amend or discontinue any of the provisions of this policy for any reason or none at all, in whole or in part, at any time, with or without notice.

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date

## **Addendum B**

### **Employee Benefits**

The town reserves the right to change insurance carriers, or to add, delete or amend benefit programs in its sole discretion. The town also reserves the right to change the amount or percentage of its contribution to the cost of any group health insurance or other benefit program. Employees will be provided with advance notice of any change in the contribution rate or change in benefit plan program offerings. Benefits for eligible employees are listed below:

#### **C.1. *Health Insurance***

The Town also offers a payment-in-lieu of health insurance program. This program pays a cash value of 1/3 of the insurance premium for the employees whose spouse has equal or better coverage through their employer. Employees must request this in writing, and must show proof of the insurance.

#### **C.2. *Dental Insurance***

#### **C.3. *Life Insurance***

#### **C.4. *Long-term Disability Insurance***

#### **C.5. *Retirement - Vermont Municipal Employee Retirement System (VMERS)***

The Town participates in the Vermont Municipal Employee Retirement System (VMERS). Participation is required of all employees who are regularly scheduled to work at least 24 hours per week and at least 1040 hours per year. Contributions are made by both the employee, through payroll deduction, and by the Town at the rates set by VMERS. Changes in the required amounts are made by VMERS on occasion. If this occurs, employees will be informed. Retirement benefits are provided as set forth by statute.

#### **C.6. *Deferred Compensation - ICMA-RC***

Employees may make voluntary, pre-tax contributions to the Town's deferred compensation plan with ICMA-RC by payroll deduction up to the IRS maximum annual limit. The program is strictly voluntary and all contributions are made by the employee. Information is available from the Town Manager's office.



### **C.7. *Employee Assistance Program (EAP)***

The Town is enrolled with Invest EAP to provide free, short-term counseling, information, and resources to all Town employees and their household members. Counseling services are always confidential. Further information is available in the Town Manager's office or at [www.investeap.org](http://www.investeap.org).

### **C.8. *Payroll Direct Deposit***

Direct Deposit or optional deductions, on a weekly basis, can be credited to an employee's savings or checking account in the credit union or bank of the employee's choice. The Town reserves the right to limit the number of bank accounts to two for direct deposit/optional deductions for each payroll period.

### **C.9. *Town Beach***

All Town employees will be entitled to one free Town beach sticker each year of their employment. Stickers are for Town employees' personal vehicles only and will be issued from the Recreation Department Office upon request by the employee.

### **C.10. *Employee Development***

The Town encourages employees to continue their education and has established a reimbursement program for 100% of the direct costs of the course or program that an employee is enrolled in. In order to receive reimbursement for a course, four requirements must be met: 1) the course must be approved by the Town Manager prior to enrolling; 2) the course must be job related; 3) a grade of "C" or better must be obtained; and 4) adequate funds must be available in the Town's budget. An employee may be reimbursed for one course per semester. Reimbursement will also be given to full time employees who have satisfied the above requirements for a course conferring credit for a high school diploma or GED. Courses taken under this provision shall be outside of the employee's working hours, except with approval of the Department Head and the Town Manager. Upon completion of the course, a receipt of the course and an official statement of grades earned must be received by the Town Manager's Office. These items must be turned in before a reimbursement check will be issued.