

# TOWN OF MARLBOROUGH

## EMPLOYEE HANDBOOK

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## **INTRODUCTION**

### **101 Welcome**

As a Town of Marlborough employee, it is your responsibility to provide the public with service of the highest quality. Regardless of position, employees play a large role in the Town's programs to serve the needs of the community.

As an employer, the Town will strive to offer you good working conditions, fair pay and opportunities for advancement. In return, employees are expected to be valuable and conscientious members of a team whose mission is to provide efficient and effective service

### **102 Purpose of the Handbook**

The purpose of this handbook is to communicate the policies, procedures and practices of the Town. The Town has established standards of conduct governing employees in the workplace. These personnel policies are designed to conform to existing federal and state laws and to maintain a proper work atmosphere for the mutual benefit of the Town and its employees. This handbook was developed in an effort to clarify the personnel issues and policies common to all employees. **It serves as a supplement and does not supersede contract language, Civil Service laws, rules or regulations or the Town Code.** In the event any provision of this handbook conflicts with a provision of a collective bargaining agreement, the language of the collective bargaining agreement will control. The purpose of this handbook is to make existing policies more explicit and covers areas where questions are likely to arise.

### **103 Contractual Disclaimer**

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*The policies set forth in this handbook are for informational purposes only and detail those policies in effect on the date of approval by the Town Board and does not constitute an offer or agreement/contract by the Town of any type between the Town and any employee as to the terms or conditions of employment, nor is this an offer of continued future employment. This handbook is not intended to create a contract of employment, nor is it intended to alter in any way the rights afforded to employees by the Civil Service Law, collective bargaining agreements, individual employment contracts, the Taylor Law, or any other applicable federal, state or local laws. The provisions of this handbook may be modified from time to time at the discretion of the Town Board.*

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### **104 Section Headings**

The various section headings used in this handbook are informational only and are not intended to define the scope or meaning of any particular section.

## **EMPLOYMENT MATTERS AND EMPLOYEE STATUS**

### **201 Appearance and Conduct**

All Town employees are expected to remain aware of their responsibilities to the public and of the fact that they are representatives of the Town. Employee appearance and conduct is expected to be such that it will contribute to a positive public image of the Town and its employees. Employees are expected to maintain an adequate knowledge of the operations of their department so that, if placed in a position of contact with the public, they may give an accurate description of the functions of that Department. All employees are required to be courteous in their relationships with the public and to give helpful and accurate information when necessary. In carrying out the functions of their Departments, all employees shall direct and coordinate their efforts to establish and maintain the highest standards of efficiency and effectiveness.

### **202 Hiring/Promotions**

It is the Town's policy to hire the best available person whenever a vacancy occurs. Unless some other procedure is specifically required by a collective bargaining agreement or County Civil Service, it is the policy of the Town, insofar as practicable, to fill job vacancies from within the ranks of current employees. The Town will make every effort to let employees know of promotional opportunities and give all eligible employees an equal chance to apply. However, this provision in no way prohibits the Town from hiring outside the ranks of current employees to the extent allowable by law and contractual obligations.

County Civil Service job descriptions will be used as basic framework for job descriptions:  
additional duties may be assigned by your department head.

### **203 Resignation**

Employees ending their employment with the Town shall submit a letter of resignation indicating their last day of service with the Town. Employees are encouraged to provide as much notice as possible to the Town, with a minimum of two weeks notice. The Town Supervisor, the Deputy Supervisor or a designee of the Town Supervisor, and the department heads may accept resignation letters. The Supervisor or his designee will conduct an exit interview. A copy of the exit interview, which the employee will be asked to sign, shall be placed in the employee's file. At that time keys or any Town property must be returned by the employee.

### **204 Personnel File**

The Town shall maintain an official personnel file for every employee. An employee desiring to review the contents of his or her personnel file must submit a written request for such review to the Town Budget Officer, who will arrange for the employee to review the file in the presence of an authorized Town Official or designee. An employee may request copies of the contents of his or her file, but the employee may not remove any documents or information from the file.

## **205 Categories of Employees**

Full-Time: Includes all employees of the Town, excluding Elected Officials, members of boards, commissions, part-time, temporary and seasonal employees as defined below. A full-time

employee is one who regularly works at least thirty-five (35) hours per week, except for any employee who, prior to adoption of this Handbook, was appointed with the understanding that thirty (30) hours per week would constitute full-time employment.

Part-Time: Any employee who regularly works less than thirty-five (35) hours per week or who is

paid no more than one half of the rate assigned to the position if the position to which he or she is assigned has been allocated to a graded salary schedule. This definition of "Part-Time" relates only to various benefits described in this handbook. This definition is not intended to supersede Civil Service rules regarding part-time employees.

Seasonal: Seasonal employees are hired to work on a specific project or for a specified period of time with the definite understanding that their employment shall cease at the conclusion of the project or the end of the period of time which shall in no event exceed four (4) months.

Temporary: A temporary employee is one appointed to a position which is established only for a

short duration or is temporarily vacant, or a temporary appointment to a permanent position. Such an appointment may extend for the authorized duration of a leave of absence.

Elected Officials: Includes all full and part-time Elected Officials of the Town, including the Town

Supervisor, Town Justices, Town Board Members, Town Clerk, and Highway Superintendent.

## **206 Change in Status**

Employees are responsible for immediately notifying their respective department heads and the

Budget Officer of any changes to certain personal information, including: change of name,

address, telephone number, personal status, emergency information, beneficiary designations, and other relevant information.

## **207 Absence without Permission**

An employee may not be absent from work without permission from the Town Supervisor or

department head. Employees who are absent without permission may be subject to disciplinary action, up to and including termination.

#### **208 Excessive Absenteeism or Lateness**

Excessive unauthorized absenteeism, lateness or leaving early may lead to disciplinary action, including dismissal.

#### **209 Grievances**

Every permanent full-time employee shall have the right to present any grievance concerning work terms or conditions to the Town Board, in writing, within 10 work days of when he/she knew or should have known about the event or condition that serves as the basis for the grievance. Where practicable, the Town Board shall issue a decision on the grievance within 30 workdays of receipt of the grievance. All decisions issued by the Town Board shall be binding and final.

## **HOURS, COMPENSATION AND BENEFITS**

### **301 Hours of Employment/Work Week**

The basic workweek shall run Monday through Friday, except for employees assigned to continuous operations. Town Hall offices are normally open from 8:00am to 4:00pm. Department heads are responsible for ensuring coverage during normal working hours in order to serve the public most effectively. In the event there is not sufficient coverage due to vacation or sick time, the department head will make arrangements with other departments for coverage. The particular work schedules in other departments may vary depending upon the particular needs and requirements of the departments, or applicable collective bargaining agreement provisions.

### **302 Time Records/Time Clock**

Each employee must have his/her attendance recorded on a timecard or attendance sheet.

Attendance records must accurately reflect an employees' arrival and departure times.

Time records must be certified and signed by the department head with a copy being sent to the

Town Budget Officer or Secretary to the supervisor for payroll computation. Any errors in time

records should be brought to the attention of your department head immediately, which will make and initial the correction.

No employee is permitted to make any entries or notations on any other employee's time card or attendance sheet.

All employees who utilize a time clock are responsible to punch in and out at the beginning and

end of each workday, and for lunch or any other authorized meal period. Under no circumstances shall an employee punch in or out for another employee or make any other use of another employee's timecard. If you believe that an error exists on your timecard, review the

matter with your department head. If an error is found to have occurred, your department head

will make a handwritten correction on the timecard, and you both will initial the correction. It is the employee's responsibility to promptly report any suspected timecard errors. Hours on timecards are rounded to the quarter hour. For example, a punch at 6:53 rounds to 7:00; a punch at 7:07 rounds to 7:00; a punch at 6:52 rounds to 6:45; and a punch at 7:08 rounds to 7:15. If you punch out 8 minutes or more after the end of your scheduled shift due to performance of your job duties, you are permitted to punch in later the next day by an equivalent amount of time. For example, if your shift ends at 4:00 and you punch out at 4:12 due to performance of your duties, you can punch in the following workday 12 minutes past your scheduled start time. You are not permitted to

punch in 8 minutes or more prior to your scheduled start time without approval of your department head, who shall note such approval on your timecard.

### **303 Tardiness/Leaving Early**

Employees are required to report for work on time, both in the morning and after the lunch break, unless prior approval has been obtained from the department head. Reporting late or leaving early without authorization is not permitted and will result in a payroll deduction. It is important all departments are accessible during Town Hall hours. Lunch breaks are not to be used to shorten your day. Personal time may be taken if approved by department head or supervisor to cover loss of time.

### **304 Overtime**

During emergencies, inclement weather or because of other unusual requirements, employees may be required to work over their normal workday or workweek. Compensation for such work shall be determined by any applicable collective bargaining agreements and the Fair Labor Standards Act.

All time worked beyond an employee's scheduled workday must be pre-approved by the department head or Town Supervisor.

### **305 Meal Break**

Any employee who works a shift of six (6) hours or longer is entitled to and must take an unpaid meal break of at least thirty (30) minutes between the hours of 11:00 AM and 2:00 PM. The meal break cannot be waived, and no work duties shall be performed during such break, without prior consultation with and approval by the Town Supervisor.

### **306 Health Insurance**

The Town will provide medical insurance to all eligible employees upon hire. Employees hired prior to January 1, 2007, receive medical and dental insurance 100%. Employees hired after January 1, 2007, are required to pay 10% of health insurance and 5% of dental insurance premium attributed to the employee's benefit.

Full-time employees, the Town Supervisor, the Town Clerk and the Town Highway Superintendent shall be eligible to participate in the Town's health benefit programs.

Part-time employees, the Town Board Council Members and any Town Justice elected or appointed after adoption of this Handbook may participate in the Town's health benefit programs based on the employee paying 100% of the health-benefit premium.

Employees may consult with the Budget Officer to determine their eligibility and contribution rates for such coverage.

In the event that the employee's spouse is employed and has health benefits available to him/her, the Town will be only responsible for the employee and his/her dependents, excluding the spouse. Verifying documentation will be required annually.

### **307 Health Insurance "Buy-Out" Program**

Full-time employees who are eligible for health insurance coverage but do not elect such

coverage may be eligible for a 'buy-out'. The buy-out is for a period of one (1) year (January 1st

through December 31st). New hires will start eligibility in accordance with health insurance

eligibility policy: the effective date of participation in the buy-out is the same as the effective date of health insurance, as if the employee had chosen health insurance. The rate will be \$61.54 per week, or \$800.00 per quarter.

Payment is made on a quarterly basis. Payments are reportable as income for federal and state income tax.

Employees who terminate employment, prior to the completion of the current quarter, will receive a pro-rated payment for that quarter.

Participants must maintain adequate health insurance coverage for the duration of the buy-out

period. Participants must submit a copy of their health insurance enrollment card.

Employees

who do not maintain alternate health coverage will not be eligible for participation in the buy-out.

### **308 COBRA Coverage**

**Qualified Beneficiaries** who would lose health coverage under the Town's group health plan due to **Qualifying Events** (i.e., loss of job, reduction of hours, divorce, etc.) are given the opportunity to purchase continued health coverage ("COBRA coverage") for a period of at least 18 months in the event of termination or reduction of hours.

If the Qualified Beneficiary is determined to have a disability at the time of termination or reduction of hours in accordance with Title II or XVI of the Social Security Act the period may be extended from 18 months to 29 months. In order to be eligible for the 29 month period, the Qualified Beneficiary must notify the plan administrator within 60 days of the determination of disability but within the 18 month period. The period can also be extended to 36 months in the event of the death of the covered employee, the loss of dependent child status under the plan; the covered employee becomes entitled to Medicare, or for divorce or legal separation of the covered employee.

**Qualified Beneficiaries** include covered employees who are terminated for reasons other than gross misconduct, covered employees who have their working hours reduced, or a spouse or dependent child of a covered employee who is a qualified beneficiary on the day before the qualifying event.

Qualifying Events, which trigger COBRA coverage, are.

- Covered employees that voluntarily or involuntarily terminate their employment for any reason other than gross misconduct.
- Covered employees that suffer a reduction in the number of hours worked
- Covered employee that fails to return to work following a FMLA leave.
- Being married to or a dependent child of a covered employee at the time of the covered employee's voluntary or involuntary termination for any reason other than gross misconduct
- Being married to or a dependent child of a covered employee at the time of the covered employee's reduction in the hour's employment.
- Divorce or legal separation from the covered employee
- Being married to or a dependent child of a covered employee at the time of the covered employee becoming eligible for Medicare.
- Being married to or a dependent child of a covered employee at the time of the covered employee's failure to return to work following an FMLA leave.
- A dependent child of a covered employee ceases being dependent under the plan

The Town will notify you in writing shortly after a Qualifying Event of your right to elect COBRA coverage. You must notify the Town within sixty (60) days of receiving the written notice if you wish to purchase COBRA coverage. The employee is responsible for notifying the Budget Officer of any Qualifying Event.

### **309 Retirement Plans**

All eligible employees may choose to be members of the New York State Employees Retirement system plan. All full-time employees and Police Officers must enroll with the New York State Retirement. This is mandated by law.

### **310 Jury Duty**

When a full-time permanent employee is called for jury duty or must act as a witness for the Town, ordinarily time off with pay will be granted. Employees are expected to report for work if the jury duty does not require their full-time service.

Proof of required court attendance is required. Submit court notifications prior to the absence. If you are a party to a court action, you must charge absences to leave credits.

An employee's supervisor should be notified of such a leave requirement as soon as possible.

The employee performing jury duty shall be paid only the difference between his regular pay and fees paid for jury duty. In the alternative, any funds received by an employee for jury service (state, federal, county, town, etc.) or any witness fees if testifying on behalf of the Town, must be turned over to the Town. In no event shall an employee receive more money than the employee would have received for a regular workday. All other employees will be granted a leave of absence for jury duty without pay.

### **311 Holidays**

The following are holidays and dates of observance for all regular, full-time employees. Such employees shall be paid at the employee's regular rate for these days.

New Year's Day  
Martin Luther King Jr Day  
President's Day  
Good Friday (amended 04/07/2014)  
Memorial Day  
Juneteenth (amended 02/14/2022)  
Independence Day  
Labor Day  
Columbus Day  
Election Day  
Veteran's Day  
Thanksgiving Day  
Friday following Thanksgiving Day  
Christmas Day

Holidays occurring on Saturdays shall be observed on the preceding Friday, and holidays occurring on Sunday shall be observed on the succeeding Monday.

Employees shall not be paid on observed holidays if they are on a formal leave of absence.

Holidays occurring during an employee's vacation period shall not be deemed to be a vacation day.

### **312 Vacation**

*Each full-time employee hired prior to January 1, 2013, shall be entitled to vacation time as follows:*

<i>Date of Hire</i>	<i>Vacation Time (working days)</i>
<i>After 6 months service</i>	<i>5</i>
<i>After 1 years service</i>	<i>10</i>
<i>After 6 years service</i>	<i>15</i>
<i>After 12 years service</i>	<i>20</i>
<i>After 17 years service</i>	<i>25</i>

Each full-time employee hired prior to January 1, 2013 who has reached 17 years of service shall be entitled to a buy out of five (5) unused vacation days per calendar year. Each such employee shall be entitled to only one (1) buyout in a calendar year.

*Each full-time employee hired on or after January 1, 2013, shall be entitled to vacation time as follows:*

<i>Date of Hire</i>	<i>Vacation Time (Working days)</i>
<i>After 6 months service</i>	<i>5</i>
<i>After 1 years service</i>	<i>10</i>
<i>After 7 years service</i>	<i>15</i>
<i>After 14 years service</i>	<i>20</i>

All vacation will be granted, so far as possible, in order of seniority. Any days in excess of ten (10) may be taken within the normal vacation period only if work conditions permit it; otherwise they may be taken outside the normal vacation period. The normal vacation period shall be May 1 to September 1.

Employees may in any year defer up to five (5) days of vacation to which they are entitled and may use those days during any subsequent year. The time of taking such days shall be subject to the approval of the employee's supervisor and must be taken in the units of not less than one half (1/2) day. The maximum amount of deferred time shall be no more than five (5) days. A regularly scheduled vacation shall, for scheduling purposes, take precedence over a carry-over vacation proposed to be taken, regardless of seniority. No vacation time will be bought back by the Town. If vacation is not used or carried over then it will be lost.

Vacation schedules shall be established and posted on bulletin boards within a reasonable time in advance of the normal vacation period.

Any employee who leaves the Town for any reason shall be granted a vacation if taken before the date of separation. An employee who resigns without giving the proper notice (Section 203) shall not be granted a vacation or given vacation pay. The vacation granted or paid for in these cases shall be the unused portion of whatever vacation has been earned during the current year up to the date of separation for regular employees with more than one year of continuous employment.

At resignation, an employee may exchange approved accumulated vacation time into a cash sum based on the employee's rate of pay in effect at that time (maximum of five (5) days).

All accumulated vacation time shall be forfeited in the event of a disciplinary termination or a resignation brought about by disciplinary action or charges.

### **313 Sick Leave**

Any employee who cannot report to duty because of illness or disability shall immediately notify the department head and shall state the nature of the illness or disability. Department heads shall notify the Supervisor's Office. A responsible person may make the report on behalf of the employee.

*Each full-time employee hired prior to January 1, 2013, shall be entitled to sick leave as follows:*

*Ten (10) days of sick leave shall be allowed each year, and the employee may accumulate ten (10) days per year at the rate of one (1) day for each five (5) weeks of employment.*

*Each full-time employee hired on or after January 1, 2013, shall be entitled to sick leave as follows:*

*Six (6) days of sick leave shall be allowed each year, and the employee may accumulate six (6) days per year at the rate of one (1) day per two (2) months of employment.*

For any false representation made by an employee in connection with a claim for sick leave benefits, the employee shall be subject to loss of the sick pay benefits falsely obtained or may be subject to other disciplinary action including termination.

A physician's certification may be required after the employee has been on leave for three (3) continuous work days.

It shall be the responsibility of the department head to keep an accurate record of all sick leave

accumulations on such forms prescribed by the Town Board, so that a report of same can be readily furnished upon request of the Town Board.

Sick leave or accumulated sick leave can only be used for the purpose stated and not in addition to vacation or personal business.

Reasons for using sick leave may include:

- Personal illness (including pregnancy)
- Physical incapacity or injury which was not incurred in the line of duty.
- Being quarantined in conformance with health regulation and requirements.
- Illness of an immediate family member for a one-day period to permit time to arrange for other outside care of ill family members.
- Appointments with doctors, dentists or other medical professionals.

All full-time employees, regardless of their date of hire, may accrue an unlimited number of unused sick days to be used in the case of an extended illness documented by a physician.

Upon the termination of the employee's services, any accumulated sick days up to fifty (50) shall be paid such employee on a regular payroll basis. Employees hired after January 1, 1992, will not be eligible for accumulated sick day payment.

All accumulated sick leave shall be forfeited in the event of a disciplinary termination or a resignation brought about by disciplinary action or charges.

### **314 Bereavement Days**

Employees shall receive up to five (5) bereavement days for immediate family. The "immediate family" is defined as spouse, child, parent, brother or sister, or permanent co-habitant. Two (2) days shall be granted for parental in-laws and grandparents. One (1) day shall be granted for nonparental in-laws.

### **315 Military Leave**

Employees shall be entitled to military leave in accordance with applicable collective bargaining agreement(s) and state and federal law.

### **316 Personal Leave**

*Three (3) days of personal leave is permitted per year. Unused personal leave cannot be carried over into the next calendar year and must be taken in increments of no less than two (2) hours.*

A one-day notice of the request to take personal leave time shall be given by the employee to his/her Supervisor, except in the case of an emergency.

Employees shall not be paid for unused personal leave upon any termination of employment.

### **317 Leave of Absence without Pay**

Full-time permanent employees may request leave without pay for special circumstances and with the approval of their department head and the Town Supervisor. The purpose of such leave would include extended illness or extended vacation, not to exceed three (3) months.

The Supervisor may grant leave of absence without pay, but if the leave is for longer than ten (10) working days, the approval of the Town Board is required. The request must be made and approved prior to taking a leave of absence.

### **318 Leave for Blood Donation**

Any employee who works twenty (20) or more hours per week is entitled to three (3) hours of paid leave in any twelve (12) month period for the purpose of donating blood if the blood donation takes place on the Town's worksite. If the blood donation takes place off the Town's worksite, then the employee will be provided with three (3) hours of unpaid leave. Proof of appointment/screening may be required by your immediate Supervisor.

### **319 Paid Cancer Screening Leave**

All employees are allowed to take up to four (4) hours annual leave for breast cancer screening and up to four (4) hours annual leave for prostate cancer screening and such time shall be paid leave without charge to any accrued paid leave.

### **320 Rights of Nursing Mothers**

Section 206-c of the New York Labor Law provides the right of nursing mothers to express breast milk. In accordance with the law, the Town shall provide reasonable unpaid break time each day to allow an employee to express breast milk for her nursing child for up to three years following childbirth.

An employee wishing to avail herself of this benefit is required to give advance notice. Such notice shall preferably be provided to the employer prior to the employee's return to work following the birth of the child in order to allow the Town an opportunity to establish a location and schedule time amongst multiple employees if needed.

Each break shall generally be no less than 20 minutes, and may run concurrently with regularly scheduled paid rest breaks or meal times.

Upon election of employee, the Town will allow the employee to work before or after her normal shift to make up the amount of time used during the unpaid break time(s) for the expression of breast milk so long as such additional time requested falls within normal work hours.

The Town is not responsible for insuring the safekeeping of expressed milk stored in the refrigerator on its premises.

### **321 Fire Calls**

Employees who are volunteer members of the Marlborough Fire Department and Milton Engine Company Number 1 shall be permitted to attend fire calls during working hours without loss of pay or leave credits. The employee may be required to submit verification of the employee's attendance at such call. An employee who is required to appear as a witness to an incident related to the employee's role as a volunteer firefighter shall be granted leave without loss of pay or leave credits.

### **322 Seniority**

If not otherwise detailed by Civil Service Law, seniority shall be based upon the accumulated continuous paid services of the employee with the Town. The employee's earned seniority shall not be lost because of absence due to illness, authorized leave of absence or temporary layoff

### **323 Employee Expenses**

The Town will ordinarily pay all necessary expenses incurred by employees who attend conferences, seminars, etc., related to their employment. The employees must request permission from the Town Board prior to the event (preferably one (1) month). Requests for prepayment of expenses can be made or vouchers submitted for repayment with receipts attached.

Employees who make authorized trips for Town purposes will be reimbursed for their travel expenses including appropriate transportation, meals and lodging. Proper documentation of these expenses is required.

Travel by public transportation will be reimbursed at cost. An employee required to use his/her personal car will be reimbursed for mileage per federal law or collective bargaining agreement.

The employee claiming reimbursement for travel expenses will obtain a travel voucher, provide the required information, attach receipts, and submit it to the department head for approval.

Travel reimbursement guidelines are as follows:

For approved conferences, the Town will pay the published rates for registration. Meals and lodging will be reimbursed as per the state recommended allowances or submitted receipts, whichever is less. Alcoholic beverages are not subject to reimbursement.

The employee must attempt to obtain the "government rate" or the lowest possible rate available.

The Town will only reimburse for the employee's expenses.

### **324 Reimbursement for Job-Related Training and Education**

The employee must secure prior approval from his or her department head and the Supervisor and will be reimbursed by the Town upon presentation of receipted bills. The Town will reimburse an employee for tuition fees and the cost of books for courses/seminars directly related to his or her current position with the Town, as determined in the sole discretion of the Supervisor upon receipt of a recommendation from the employee's department head. In some cases, payment may be made directly from Town funds to the institution of learning if approved by the Supervisor.

Payments for college-level courses will be made only if the employee secures a grade B or higher in the course or courses taken. The employee must provide verification of a grade B or higher from the institute of learning. If an employee receives any grade lower than a B, he or she shall reimburse the Town for any fees and costs paid to the employee or institution by the Town.

Payments for seminars will be made only if the employee secures a certificate of completion for the course. If an employee does not receive the certificate of completion, he or she shall reimburse the Town for any fees and costs paid to the employee or institution by the Town.

Upon completion of course(s), The Town Board will address the requirement of employment term consistent with the level of approved schooling.

### **325 Health Insurance Premiums for Retirees**

#### **1. For Employees hired prior to January 1, 2007**

The Town will provide medical insurance to all eligible employees upon retirement and receive medical and dental insurance 100% for all eligible employees upon retirement, plus spouses and eligible dependents.

Employees must have worked for the Town at least twenty (20) years prior to retirement and are at least 55 years in age (under the New York State Retirement System).

Upon the retired employee becoming Medicare eligible, the Town shall only pay for the cost of the Medicare supplement plan.

Upon the retired employee becoming Medicare eligible, the Town shall pay for the cost of Medicare part B premium on an annual basis

Upon the death of a covered retiree, the Town shall continue to pay the health insurance premium for the surviving spouse until the age of 65.

In the event that the surviving spouse is entitled to pay health benefits from his or her employer other than through employment with the Town, Town paid health benefits shall be denied.

In the event the surviving spouse remarries, Town paid health insurance shall expire 30 days thereafter.

## **2. For eligible employees hired on or after January 1, 2007**

The Town will provide medical insurance to those eligible employees upon Retirement based on the following

- a) The Town will continue to pay health insurance premiums (individual, one plus one or family) for eligible employees who have worked for the town at least ten (10) continuous years based on the percentages of the sliding scale below.
- b) Health Insurance premium payment will be effective immediately upon retirement (under the New York State Retirement System) based on the percentages of the sliding scale below.
- c) Upon the retired employee becoming Medicare eligible, the Town shall pay for the cost of the Medicare supplement retiree plan based on the percentages of the sliding scale below.
- d) Upon the retired employee becoming Medicare eligible, the Town shall pay for the cost of Medicare part B premium on an annual basis based on the percentages of the sliding scale below.
- e) Upon the death of a covered retiree, the Town shall continue to pay the health insurance premium for the surviving spouse until the age of 65 based on the percentages of the sliding scale below.
- f) In the event that the surviving spouse is entitled to paid health benefits from his or her employer other than through employment with the Town, Town paid health benefits shall be denied.

Sliding Scale:

<b>Length of Service (Years)</b>	<b>Town (Percent)</b>	<b>Employee (Percent)</b>
10 - 11	50	50
12 - 13	60	40
14 - 15	70	30
16 - 17	80	20
18 - 19	90	10
20 and above	100	0

## **3. For all eligible employees hired on or after January 1, 2015**

The sliding scale of retiree health insurance premiums set forth in section (2) above shall not be applicable.

- a) For all eligible employees hired on or after January 1, 2015, The Town will provide health insurance for eligible employees, plus spouse and eligible dependents, who
  - i. have worked for the Town at least twenty (20) years prior to retirement and are at least 55 years of age (under the New York State Retirement System).
  - ii. The Town will pay 90% of the Medical, Dental plans in retirement
  - iii. The retired employee will pay 10% of the Medical and Dental plan
- b) Upon the retired employee becoming Medicare eligible, the Town shall pay 90% of the cost of the Medicare supplement retiree plan and the employee shall pay the remaining 10%
- c) Upon the retired employee becoming Medicare eligible, the Town shall pay 90% toward the cost of Medicare part B premium on an annual basis and the employee shall pay the remaining 10%
- d) Upon the death of a covered retiree, the Town shall continue to pay 90% of the health insurance premium for the surviving spouse and the spouse shall pay the remaining 10% until the age of 65.
- a) In the event that the surviving spouse is entitled to paid health benefits from his or her employer other than through employment with the Town, Town paid health benefits shall be denied.
- b) In the event the surviving spouse remarries, Town paid health insurance shall expire 30 days thereafter.

### **326 Credit Union**

Any employee may join the Ulster Region Federal Credit Union. Please contact the Town Supervisor's secretary or the bookkeeper for information.

### **327 Longevity**

Non-union, non-elected official, and non-contractual full-time salary employees shall earn longevity in accordance with the following schedule:

10 years of service	\$1000
11 years or more of service	\$100 every year thereafter to a maximum of \$2,000 longevity payment

Longevity payment shall be paid as a lump sum payment within one (1) month of the employee's anniversary date

## **TOWN POLICIES AND PROCEDURES**

### **401 Dress Code/Personal Appearance**

Since Town employees are representatives of the Town, their appearance is a reflection of the Town and therefore important. Employees are encouraged to maintain good personal hygiene and appearance. However, the following guidelines are to be adhered to by Town employees with regard to their dress.

Employees provided uniforms by the Town in accordance with provisions set forth in their respective collective bargaining agreements are expected to wear the uniforms during work hours. Uniforms are expected to be cleaned and neat at the time the employee reports for work. Employees who work in Town offices are required to dress in a manner that is neat, clean, professional and creates a favorable image. Employees are prohibited from wearing "cut offs", "short-shorts", midriff bearing shirts, see through tops, tank tops, tube tops, spaghetti strap shirts, mesh shirts, mini skirts, backless tops, ripped or tattered jeans or pants. However, this list is not all-inclusive and department heads and the Supervisor retain the right to request an employee to change their attire if not in keeping with a neat, clean and professional appearance.

### **402 Smoking Policy**

Pursuant to New York State law, it is the Town's policy that smoking shall not be permitted in any Town building, facility, enclosed common area or Town vehicle. Employees shall not smoke in the entrance of any Town building, facility, or common area. Employees violating this policy may be subject to discipline.

### **403 Driver's Licenses**

Any employee who is required to drive either a Town vehicle or a personal vehicle to conduct Town business as part of their job duties must possess at the time of appointment and must maintain throughout their employment with the Town, a valid driver's license. In addition, an employee who is required to operate vehicles requiring a Commercial Driver's License (CDL) must maintain this license throughout employment.

Any such employee whose license is suspended or revoked must notify his/her department head immediately. Loss or suspension of his/her license may have an affect on continued employment with the Town.

#### **404 Vehicle and Equipment Usage**

This section supplements the provision of Section 147 of the Town of Marlborough Town Code.

The Town prohibits use of a Town vehicle for any reason other than Town business as determined by the Town Board. Employees who use municipal vehicles should check with the Budget Officer with regard to tax consequences and proper withholding procedures.

Town vehicles shall be assigned for use by an employee only with the approval of the Supervisor and only when such transportation is determined to be required in the fulfillment of Town duties. It shall not be assigned to an employee as a convenience and employees are prohibited from using Town-provided vehicles for personal purposes. Town vehicles when left unattended should be locked.

Employees shall not perform private work on Town property or perform private work with the use of Town labor or Town-owned materials, tools or equipment.

All operators shall operate their equipment and vehicles in conformity with all traffic laws.

Operators shall not permit unauthorized persons to ride in Town vehicles or drive Town equipment or vehicles. All equipment operators must be licensed as required by state or federal law to operate the equipment to which they are assigned.

Any employee who is assigned a vehicle to commute between his or her residence and work location must hold a position of responsibility which requires that transportation be immediately available for the conduct of the Town's operations, for the maintenance of its services, for response to emergencies or for the insurance of the safety of Town employees or the public.

Based on current Internal Revenue Service regulations the Town will withhold payroll income and employment tax payments based upon "other compensation" for any employee's use of an assigned Town vehicle for commuting between the employee's residence and work headquarters.

All Town vehicles shall have the Town logo or name permanently displayed on the vehicle's two front doors. Department identification shall be on the front fenders.

This section does not apply to Police Department employees and the use of department vehicles shall be determined by the Chief of Police and department policy.

#### **405 Employee Assistance Plan**

The Town has an Employee Assistance Program designed to offer help to employees who may have problems with alcohol or drugs, emotional problems, financial problems and/or other difficulties which may affect their job performance. Referrals to the EAP may be voluntary or as a result of job performance interviews with supervisors. The purpose of this program is to rehabilitate and restore the employee to full job efficiency. Please refer to separate literature for details of location and procedure, or see your department head.

All referrals and discussions which take place in the EAP are strictly confidential.

#### **406 Solicitation Policy**

The Town will not authorize the solicitation of, or sale of, goods or services to, or requests for contributions from, Town employees during working hours, except for solicitations for charitable organizations and civic purposes endorsed by the Town (United Way, etc) from time to time. When solicitations are permitted, no employee shall be required or pressured to respond to them or to make any contribution or purchase.

Any requests for permission to solicit must be submitted to the Supervisor's Office.

#### **407 Sexual Harassment Policy**

##### **Policy Statement**

It is the policy of the Town to promote a productive work environment. The Town prohibits sex discrimination, including sexual harassment of its employees, in any form. No form of harassment will be tolerated. The Town will take all steps necessary to prevent and stop the occurrence of sexual harassment in the workplace. The accompanying complaint procedure is intended to provide an effective mechanism for reporting, and resolving promptly, complaints of sexual harassment without any risk of repercussion to a complaining employee for filing a complaint of sexual harassment in good faith.

##### **Applicability of Policy**

This policy applies to all Town employees and Officials regardless of supervisory level, whether employed full-or part-time, temporary or seasonal, elected or appointed, regardless of compensation level, and all personnel in a contractual relationship with the Town. Depending on the extent of the Town's control, this policy may be applied to the conduct of non-Town employees with respect to sexual harassment of Town employees in the workplace.

## Supervisory Responsibility

Department heads and supervisory personnel are responsible for ensuring a work environment

free from unsolicited, unwelcome and intimidating behavior, including behavior of a sexual nature. Supervisors must take immediate and appropriate corrective action to assure compliance with this policy when instances of sexual harassment come to their attention. Supervisors are also responsible for immediately notifying the Town Supervisor of any policy violations.

## Definition of Sexual Harassment

The Equal Employment Opportunity Commission (EEOC) defines sexual harassment as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature to an individual of the same or opposite gender when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions, such as promotion, transfer or termination, affecting such individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Sexual harassment refers to behavior that is not welcome, that is personally and objectively offensive, that fails to respect the rights of other, that lowers morale and that, therefore, interferes with an employee's work performance and/or effectiveness or creates and intimidating, hostile or offensive working environment. Exposure to such conduct that serves to alter the terms and conditions of employment is prohibited by this policy and state and federal law.

## Forms of Sexual Harassment

Specific forms of behavior that the Town considers sexual harassment and that are prohibited include, but are not limited to, the following:

- Verbal harassment of a sexual nature related to an employee's gender, including sexual innuendoes, slurs, sexual slurs, suggestive, derogatory, insulting or lewd comments or sounds, whistling, jokes of a sexual nature, sexual propositions and/or threats.

- Sexually oriented comments about an employee's body that are unwelcome and/or unreasonably interfere with an employee's work performance or create an intimidating, hostile or offensive working environment.
- Any sexual advance that is unwelcome or any demand for sexual favors.
- Sexually suggestive written, recorded or electronically transmitted material, showing or displaying pornographic or sexually explicit objects or pictures, graphic commentaries, leering or obscene gestures in the workplace such that it unreasonably interferes with an employee's work performance or creates an intimidating, hostile or offensive working environment.
- Physical contact of any kind that is not welcome, including touching, grabbing, hugging, fondling, jostling, petting, pinching, coerced sexual intercourse or sexual relations, assault or intentional brushing up against a person's body.

#### Reporting of Sexual Harassment

Employees are encouraged to report incidents of sexual harassment to their department head, the Town Supervisor or any Town Board member as soon as possible after any such occurrence. The specific details of the complaint must be set forth in written form.

#### Confidentiality

Complaints of harassment will be handled and investigated promptly and in a manner that is as impartial and confidential as possible. In no event will information concerning a complaint be released by the Town to third parties or to anyone within Town employment who is not directly involved in the investigation of the complaint unless otherwise required by law.

#### Investigation of Complaint

The Town Supervisor will convene with the Town Board in executive session to determine the appropriate individual to conduct the investigation. The investigation, conducted by the Board-appointed individual, will normally include conferring with the parties involved and any named or apparent witnesses. The particular facts of the allegation will be examined individually, with a

review of the nature of the behavior and the context in which the incident(s) occurred. Any complaints received will be investigated promptly, thoroughly, and in as impartial a manner as possible. All employees are required to cooperate in an investigation.

#### Employee Defense

Any employee charged with sexual harassment will be afforded a full and fair opportunity to offer and present information in the employee's defense. Such information will be confidential to the extent possible.

#### Employee Rights

Nothing in this policy should be construed as in any way limiting employees' rights to use the "Grievance" procedures (Section 209) of this handbook.

#### Disciplinary Action

Any employee or Official who is found to have committed an act of sexual harassment will be subject to disciplinary action, up to and including termination of employment, as provided by the Town's personnel policies.

#### Prohibition Against Retaliation

Intimidation, coercion, threats, reprisal or discrimination against any employee who in good faith brings a written or verbal sexual harassment complaint or who assists or aids in the investigation of such a complaint is prohibited. Any employee who participates in the procedure may do so without fear of retaliation. Retaliation against any employee who has filed a sex discrimination or sexual harassment complaint is illegal and may result in disciplinary action.

### **408 Equal Employment Opportunity and Non-Discrimination Policy**

#### Policy Statement

The Town recognizes the uniqueness of each of its employees and the varying cultures, backgrounds and experiences they bring to the workplace. It is the policy of the Town to promote a productive work environment in which all employees are treated with fairness, respect and dignity. The Town will not tolerate harassment or discrimination of any kind in the workplace.

#### Employee Responsibilities

All employees and Elected Officials are expected to treat coworkers, vendors, suppliers, Town

residents and any other non-employees that the employee comes into contact with on the job with fairness, dignity and respect. The Town prohibits any form of discrimination, harassment or other offensive behavior targeted toward an individual based on race, religion, color, sex, age, national origin, marital status, pregnancy, veteran status, arrest/criminal record, disability, genetic predisposition or carrier status, sexual orientation or any other reason protected by federal or state law.

#### Notification of Policy Violations

An employee should immediately report any kind of harassment, discrimination or offensive behavior in the workplace to the employee's department head, Town Supervisor or any Town

Board member. All complaints must be in writing and will be investigated discreetly and promptly. An employee who reports harassment or discrimination in the workplace will not suffer adverse employment consequences as a result of making the complaint.

#### Disciplinary Action

Any employee who violates this policy will be subject to disciplinary action, up to and including

termination of employment. Any Elected Official who violates this policy will be subject to remedial action as provided for and/or allowed under NYS Public Officers Law, as well as any other applicable statutes. Any vendor, supplier, visitor, customer or other non-employee who violates this policy will be subject to remedial action to the extent that the Town is empowered to take such action.

#### Employee Defense

Any employee charged with sexual harassment will be afforded a full and fair opportunity to offer and present information in the employee's defense. Such information will be confidential to the extent possible.

#### Employee Rights

Nothing in this policy should be construed as in any way limiting employees' rights to use the

"Grievance" procedures (Section 209) of this handbook.

### **409 Workplace Violence Prevention Policy**

The Town desires to maintain a safe and secure workplace for all employees, customers, contractors, vendors, and the general public. The Town is committed to a zero tolerance for

workplace violence and to maintaining an environment free of violence, threats of violence, harassment, intimidating and other disruptive behavior. "Workplace violence" is defined as any physical assault, threatening behavior or verbal abuse occurring in the workplace by employees of The Town, the general public, contractors or vendors.

### Prohibited Conduct

The Town does not tolerate any type of workplace violence committed by or against employees or Town Officials. Employees and Town Officials are prohibited from making threats or engaging in violent activities.

This list of behaviors, while not inclusive, provides examples of conduct that is prohibited:

1. Causing physical injury to another person;
2. Making harassing, abusive or threatening remarks;
3. Aggressive or hostile behavior that creates a reasonable fear of injury to another person;
4. Intentionally damaging Town property or property of another employee; or
5. Possession of a weapon while on Town property or while on Town business.

A workplace violence prevention program, developed in accordance with NY Labor Law 27-b, will be made available to employees and their union representatives. The Town will provide training on the risks of occupational assaults and homicides in the workplace at least annually and at the time of an employee's assignment in the workplace.

The objectives of this policy are as follows:

1. Reduce the potential for violence in and around the workplace.
2. Encourage and foster a work environment that is characterized by respect and healthy conflict resolution.
3. Mitigate the negative consequences for employees who experience or encounter violence while at work.
4. Protect employees or citizens who are working or are on Town property and who may be experiencing threats of violence from anyone, either an employee or a non-employee; and protect employees who are working off Town property or in non-Town facilities.

### Reporting Procedures

Imminently dangerous situations and/or crimes in progress must be reported immediately to the

police by calling 911 and/or the Marlborough Police Department. Any potentially dangerous situations must be reported immediately to your department head and/or the police as necessary. If you feel uncomfortable reporting such a situation to your department head or you feel your complaint has not been adequately addressed, please report it to the Town Supervisor. All reported incidents will be investigated. Reports or incidents warranting confidentiality will be handled appropriately and information will be disclosed to others only on a need to know basis. Should the Town determine it necessary to interview the employee alleged to have engaged in prohibited conduct, and the employee is a member of a Union recognized by the Town, the employee shall be notified of his or her rights to be accompanied by a Union representative at such interview. All parties involved in a situation will be counseled and the results of investigation will be discussed with them.

No employee shall be retaliated against for his or her good faith reporting of a workplace violence prevention risk.

### **Risk Reduction Measures**

While we do not expect employees or Town Officials to be skilled at identifying potentially dangerous persons, employees are expected to exercise good judgment and to inform their department head or the Town Supervisor if any employee exhibits behavior which could be a sign of a potentially dangerous situation. Such as behavior includes:

1. Discussing weapons or bringing them to the workplace; (police dept)
2. Displaying overt signs of extreme stress, resentment, hostility or anger;
3. Making threatening remarks
4. Sudden or significant deterioration of performance;
5. Display irrational or inappropriate behavior.

### **Enforcement**

Threats, threatening conduct or any other acts of aggression or violence in the workplace will not be tolerated. Any employee or Town Official determined to have committed such acts may be subject to disciplinary action consistent with applicable law, rules, regulations and or collective bargaining agreements, as well as potential criminal prosecution. Non employees engaged in violent acts on the Town's premises or against employees of the Town or Town Officials will be reported to the proper authorities.

## **410 Communications Policy**

### **Purpose**

It is the purpose of this Communications Policy to set forth the rules and regulation for utilization of the Town's computers and computer system.

## Prohibitions

No person shall view, send, read, download, access via the internet or store fraudulent, harassing, embarrassing, sexually explicit, profane, obscene, intimidating, defamatory or other unlawful or inappropriate material. Such activities are prohibited insofar as they occur on Town premises, occur on or via the Town's computers or communication resources, occur during work time or involve communications or displays to, from or in the presence of coworkers, the public or agents of the Town.

## Electronic Communications

Employees and Officials shall not send or receive by Town email (or any other electronic communication involving Town time or Town resources) personal messages, jokes, chain mail messages, games, novelty and/or joke executables or obscene or offensive material. (Please note that some chain messages are disguised as warnings about viruses). If a Town employee or Official receives non-Town-related material, jokes or files from another employee or Official, they are to refer that person to the Town's policies, as set forth herein, and, if the activities continue, contact the Town Board.

## Time Loss

Use of work time and/or computer resources to play games, visit chat rooms, etc, is prohibited.

## Advertisements and Solicitations

Use of a Town computer and communication resources for the transmission or storage of commercial or personal advertisements, solicitation, promotions or political material is prohibited.

## Destructive Programs

The use, transmission or storage of destructive programs (viruses and/or self-replicating code) on any Town computers or equipment or network is prohibited.

## Installation of Software

No person shall install software onto any Town computer, equipment or network. All software installations, even free software from the internet, must be installed by the Town technician servicing the location, unless expressly approved otherwise in writing by the Town Supervisor. Any unlicensed software or personal software may be deleted by the Town without notice to the

employee or Official.

#### Unlicensed Software

No person shall use, copy or provide copies of unlicensed software.

#### Internet Browsing

Internet browsing using Town resources and/or on work time is to be limited to that which supports a Town function. Any personal use of the internet should be limited to personal time with the permission of the Town Board.

#### Confidential Information

No person shall send, transmit or otherwise disseminate nonpublic personal data, police materials or other confidential information of the Town to an unauthorized person or in an unauthorized manner. Unauthorized dissemination of this information may result in substantial civil liability as well as severe criminal penalties under the Economic Espionage Act of 1996, as well as town discipline, including dismissal.

#### Freedom of Information Requests

Employees and Officials shall comply with the procedures under the Freedom of Information Law of the State of New York in a manner which does not compromise the integrity of the Town's computer equipment or systems. Any FOIL request which may compromise the Town's equipment or systems shall be reviewed and approved by the Town Board before transmittal of the information to the person who has made such request. All FOIL requests requiring information stored on Town computers shall be retrieved by Town Officials and employees and delivered by diskette or hard paper copy only to the requesting party for a reasonable fee under the Freedom of Information Law, state and local regulations.

#### **411 Cell Phone Usage**

The Town does not endorse the use of cell phones by employees in violation of NY Vehicle and Traffic Law 1225-c. Therefore, the use of cell phones while driving must be hands-free, in the performance of the official duties of a police officer, or for the purpose of communicating with emergency response operators in the event of an emergency. Otherwise, employees are expected to pull off the road to a safe location to use a cell phone.

#### **412 Code of Ethics**

The Town has adopted a Code of Ethics that is set forth in Chapter 13 of the Town Code. Such

Chapter is incorporated by reference.

#### **413 Purchase Order Policies and Procedures**

##### **1. Purchase Requisition**

Purchaser is to initiate a Purchase Requisition for the item or service to be purchased. The Purchase Requisition should include the following:

- Date of requisition
- Name of department, contact, phone number
- Date required and delivery address
- Vendor name and address
- Description of item or service and quantity required
- Estimated Cost

Department head is to approve Purchase Requisition, enter proper budget code and submit to Budget Officer

Budget Officer is to check that budget authority exists and that the Purchase Requisition is complete and accurate. When it is determined that the budget authority exists, Budget Officer returns Requisition to Purchaser who will place the order.

##### **2. Purchase Order**

Budget Officer prepares Purchase Order and forwards a copy to the vendor and department head.

Purchase Order should include the following:

- Date of requisition
- Name of department, contact, phone number
- Date required and delivery address
- Vendor name and address
- Description of item or service and quantity required
- Estimated cost

##### **3. Receiving**

Purchaser documents receipt of the item ensuring that quantity and item is received as ordered.

Voucher, invoice, and packing slip/receiving slip are forwarded to Budget Officer

#### **414 Procurement Policy**

1. Every Town officer, board, department head or other personnel with the requisite purchasing authority shall estimate the cumulative amount of the items of supply

or equipment needed in a given fiscal year. This estimate shall become the basis for that board or department budget for that fiscal year. That adopted budget shall be communicated to the responsible Town officer, board, or department head and it shall become the responsibility of that person to manage his/her respective spending within the constraints of the adopted budget.

2. Every prospective purchase of goods or services shall be evaluated to determine the applicability of General Municipal Law, Section 103. Section 103 of the GML requires towns to advertise for bids on all contracts for the purchase of materials, supplies, and equipment involving an expenditure of more than \$20,000 and on all contracts for the accomplishment of public works involving an expenditure of more than \$35,000.
3. All purchases of less than \$20,000 but equal to or greater than \$10,000 require a written purchase requisition approved by the responsible department head or board chairman. The purchase requisition should include the following information:
  - a. date of requisition
  - b. name of department, contact, phone number
  - c. date required and delivery address
  - d. vendor name and address
  - e. description of item or service and quantity required.
  - f. estimated cost
  - g. written/fax/email/online quotes from at least 3 vendors.

The completed purchase requisition shall be submitted to the Purchasing Coordinator. The Purchasing Coordinator shall check to verify that budget authority exists and shall provide the proper coding to the applicable expense appropriation. The coded purchase requisition shall be returned to the responsible department head or board for the order to be placed.

4. All purchases of less than \$10,000 require an oral/fax/email/online quote from 2 vendors unless they are of a recurring nature necessitated by the normal business operation of a particular department. (For example, the purchase of expense parts and supplies by the Highway Department for use in the normal repair and maintenance of Highway Department equipment do not require the submission of a purchase requisition if that purchase is less than \$10,000). The waiving of the purchase requisition policy is at the sole discretion of the applicable board or department head. The requirement for written or oral quotes is also left to the discretion of the applicable board or department head for purchases under \$10,000.
5. All estimated public works contracts of:
  - a. Less than \$35,000 but greater than or equal to \$10,000 requires a written request for proposal and written/fax proposals from 3 contractors.
  - b. Less than \$10,000 is left to the discretion of the applicable board or department head.

Any written Request for Proposal shall describe the desired goods, quantity, and the particulars of delivery. The purchaser shall compile a list of all vendors from whom written/fax/oral/online quotes have been requested and the written/fax/oral/online quotes offered. All information gathered in complying with this procedure shall be preserved and filed with the documentation supporting the subsequent purchase of public works contract.

6. The lowest responsible proposal or quote shall be awarded the purchase or public works contract unless the purchaser prepares a written justification providing reasons why it is in the best interest of the Town and its taxpayers to make an award to other than the lowest bidder. If a bidder is not deemed responsible, facts supporting that judgment shall also be documented and filed with the record supporting the procurement.
7. A good faith effort shall be made to obtain the required number of proposals and/or written/fax/oral/online quotes. If the purchaser is unable to obtain the required number of proposals and/or written/fax/oral/online quotes, the purchaser shall document the attempt made. In no event shall the inability to obtain the required proposal and/or written/fax/oral/online quotes be a bar to the procurement.
8. Except when directed by the Town Board, no solicitation of written proposals or quotations shall be required under the following circumstances:
  - Acquisition of professional services
  - Emergencies
  - Sole source situations
  - Goods purchased from agencies for the blind or handicapped.
  - Goods purchased from correctional facilities
  - State/County Contract
  - True Leases
  - Insurance
  - Second-hand equipment from another Government
9. The unintentional failure to fully comply with the provision of GML, Section 104-b shall not be grounds to void action taken or give rise to a cause of action against the Town of Marlborough or any officer or employee thereof.
10. The Town Board shall annually review these policies and procedures.

## **415 Fraud and Dishonesty Policy**

### **Background**

This policy is established to facilitate the development of controls which will aid in the detection and prevention of fraudulent or dishonest acts that may harm or threaten the Town. It is the intent of the Town to promote consistent organizational behavior by providing guidelines and assigning responsibility for the development of controls and conduct of investigations.

### **Scope of Policy**

This policy applies to any fraud, or suspected fraud, involving employees as well as Elected Officials, consultants, vendors, contractors, outside agencies doing business with employees of such agencies, and/or any other parties with a business relationship with the Town.

Any investigative activity required will be conducted without regard to the suspected wrongdoer's length of service, position/title, or relationship to the Town.

## Policy

Town Board is responsible for the detection and prevention of fraud, misappropriations, and other inappropriate conduct. Fraud is defined as the intentional, false representation or concealment of a material fact for the purpose of inducing another to act upon it to his or her injury. Each department head will be familiar with the types of improprieties that might occur within his or her area of responsibility, and be alert for any indication of irregularity.

## Prohibited Conduct

The conduct prohibited by this policy includes, but is not limited to:

- Any dishonest or fraudulent act
  - Forgery or alteration of any document or account belonging to the Town
  - Forgery or alteration of a check, bank draft, or any other financial document
  - Misappropriation of funds, securities, supplies, or other assets
  - Impropriety in the handling or reporting of money or financial transactions
  - Profiteering as a result of insider knowledge of Town activities
  - Disclosing confidential and proprietary information to outside parties
  - Disclosing to other persons securities activities engaged in or contemplated by the company
  - Accepting or seeking anything of material value from contractor's vendors or persons providing services/materials to the Town. Exception: Gifts less than \$75 in value.
  - Destruction, removal or inappropriate use of records, furniture, fixtures, and equipment;  
and/or
  - Any similar or related inappropriate conduct
- Other Inappropriate Conduct

Suspected improprieties concerning an employee's moral, ethical, or behavioral conduct are also prohibited.

If there is any question as to whether an action constitutes a violation of this policy, contact the Town Supervisor and/or Police Chief.

## Investigation Responsibilities

The Town Supervisor and/or Chief of Police have the primary responsibility for the investigation of all suspected acts as prohibited by this policy. If the investigation substantiates that fraudulent activities have occurred, the Town Supervisor and/or Chief of Police will issue reports to appropriate designated personnel and, if appropriate, the Town Board.

Decisions to prosecute or refer the examination results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made in conjunction with legal counsel as will final decisions on disposition of the case.

### Reporting Procedures

The Town prohibits any retaliatory behavior directed against those individuals who, in good faith, report allegations of suspected financial improprieties/fraud and/or wrongful conduct as well as witnesses and/or any other individuals who participate in the investigation. Follow-up inquiries shall be made to ensure that no reprisals or retaliatory behavior has occurred to those involved in the investigation. Any act of retaliation is prohibited and subject to appropriate disciplinary action by the Town.

An employee who discovers or suspects fraudulent activity should contact the Town Supervisor and/or Police Chief immediately. The employee or other complainant may remain anonymous.

All inquiries concerning the activity under investigation from the suspected individual, his or her attorney or representative, or any other inquirer should be directed to the Town Supervisor and/or Police Chief.

The reporting individual should be informed of the following:

- Do not contact the suspected individual in an effort to determine facts or demand restitution
- Do not discuss the case, facts, suspicions, or allegations with anyone unless specifically asked to do so by the Town Supervisor and/or Police Chief.

### Confidentiality

The Town treats all information received confidentially.

Investigation results will not be disclosed or discussed with anyone other than those who have a legitimate need to know. This is important in order to avoid damaging the reputation of any person suspected but subsequently found innocent of wrongful conduct, and to protect the Town from potential civil liability.

### Authorization for Investigating Suspected Fraud

Town Supervisor and/or Police Chief will have:

Free and unrestricted access to all Town records and premises, whether owned or rented, and the authority to examine, copy, and/or remove all or any portion of the contents of files, desks, cabinets, and other storage facilities on the premises without prior knowledge or consent of any individual who may use or have custody of any such items or facilities when it is within the scope of their investigation.

#### Discipline

An investigation may result in disciplinary action, including termination, against an individual who has violated this policy.

### **416 Drug and Alcohol Policy**

#### Findings and Purpose

The Town is committed to providing a safe work environment and to fostering the wellbeing and health of its employees. That commitment is jeopardized when any Town employee illegally uses drugs on the job, comes to work under the influence of drugs or alcohol, or processes, distributes or sells drugs in the workplace.

The goal of this policy is to balance our respect for individuals with the need to maintain a safe, productive, drug-free and alcohol-free environment. The intent of this policy is to offer a helping hand to those who need it, while presenting a clear message that the use of alcohol or illegal drugs, or the improper use of prescription drugs on the job are incompatible with employment by the Town.

#### Possession, sale or use of Illegal Drugs

It is a violation of Town's policy for any employee to possess, sell, trade, or offer for sale illegal drugs or to otherwise be under the influence of or engage in the use of illegal drugs while on the job. For purposes of this policy, the term, "illegal drugs" shall mean a controlled substance included in Schedule I-V, as defined by Section 806(6) of Title 21 of the United States Code, being the Controlled Substances Act, the possession of which is unlawful under Chapter 13 of that Title. The term shall also include any drug or substance, the use, possession, sale or disposition of which without prescription or other authority is illegal under any state or federal statute.

#### Possession or use of alcohol

The Town prohibits any employee from using or bringing alcohol on the job or into the workplace at any time, including during such employee's lunch or other rest periods.

## Disciplinary Action

Violations of this policy are subject to disciplinary action, including, but not limited to, suspension and/or termination of employment

## Compliance Required; Notification of Drug Convictions

As a condition of employment with the Town, employees must notify the Town, in writing, of any conviction of a violation of a criminal drug statute occurring at work, no later than five (5) calendar days after such conviction. For the purposes of this policy, the term "at work" means that place where the employee is working during his or her course of employment for the Town, or any time during an employee's scheduled work day.

## Reasonable Suspicion Testing

The Town shall require an employee to submit to an alcohol or controlled substances test when it has reasonable suspicion to believe that the employee is under the influence of alcohol and/or one or more controlled substances. A department head's or Official's determination that reasonable suspicion exists must be based on specific observations concerning the appearance, behavior, speech or body odors of the employee.

## **417 Policy for Employees Holding Commercial Driver's Licenses**

*Pursuant to the Omnibus Transportation Employee Testing Act of 1991 and the United States Department of Transportation (DOT) Regulations.*

### Policy Statement

The Town is dedicated to providing safe and efficient service to our residents. Moreover, we are dedicated to providing a safe workplace for our employees.

In order to meet this goal, we hereby endorse the Federal Highway Administration substance abuse regulations and in accordance with department of Transportation regulations, the Town promulgates the following policy on the misuse of alcohol and the use of controlled substances. We will also provide training, education and other assistance to our employees. Any questions concerning either the educational materials that explain the requirements of the alcohol and drug testing regulations and/or the Town's policies and procedures with respect to meeting those requirements should be directed to the Highway Superintendent. The

Highway Superintendent shall, at a minimum, receive the same training as provided to supervisors who are responsible to oversee the drivers subject to testing.

Drug testing, in compliance with DOT regulations, is an integral part of our program. Any violation of this policy, administrative regulations and/or procedures, and applicable federal and state laws by a covered employee shall be grounds for disciplinary action including, but not limited to, fines, suspension, and/or discharge in a manner consistent with the Town policy, Collective bargaining agreements and applicable law.

The terms used in this policy are to be defined consistent with the meanings and definitions of such terms in the DOT Regulations.

Who is subject to the alcohol misuse and controlled substance provision?

This policy applies to all employees in a safety sensitive position required to have a commercial driver's license, as defined by the Department of Transportation Federal Regulations.

Definition of safety-sensitive positions

For purposes of this policy and the Town's drug and alcohol testing program, performing a safety sensitive function means any of the following and an individual whose work requires that he or she engage in the following activities is subject to testing:

1. All time spent at the Town Highway Department offices or other Town facility or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer.
2. All time inspecting equipment as required by 49 C.F.R. 392.7 and 392.8 or otherwise inspecting, servicing, or conditioning any commercial vehicle at any time.
3. All time spent at the driving controls of a commercial motor vehicle.
4. All time, other than driving time, spent on or in a commercial motor vehicle.
5. All time loading or unloading a commercial motor vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded.
6. All time spent performing the driver requirements associated with an accident.
7. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

## Training

The Town provides education and training for drivers about controlled substances and alcohol.

Such training shall be conducted in compliance with 49 C.F.R. 382.603. The training program will cover the effects of controlled substance use on personal health, safety and the work environment. Manifestations and behavioral changes that may indicate controlled substance use and abuse will also be addressed. Documentation of these training sessions will be maintained.

## Prohibitions

The following alcohol and controlled substance-related activities are prohibited by the Federal

Highway Administration's drug use and alcohol misuse rules for drivers of commercial motor vehicles:

- a) No driver shall report for duty within four (4) hours of consuming alcohol prior to performing any safety sensitive function
- b) No driver shall report for duty or remain on duty requiring the performance of safety sensitive functions while the driver has an alcohol concentration of 0.04 or greater.
- c) No driver shall use alcohol while on duty at any time while performing any safety sensitive function.
- d) No driver shall be on duty or operate a commercial motor vehicle while the driver possesses alcohol, unless the alcohol is manifested and transported as part of a shipment.
- e) No driver shall use alcohol for eight hours following an accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.
- f) No driver shall report for duty or remain on duty requiring the performance of safety sensitive functions when the driver uses controlled substances, except when pursuant to the instruction of a physician who has advised the driver that such use will not adversely affect the driver's ability to safely operate a commercial motor vehicle.
- g) No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive for controlled substances.

## Types of Tests

Drug testing for marijuana, cocaine, opiates, amphetamines and PCP will be performed on urine

specimens. Alcohol testing will be performed by means of breath testing devices approved by the National Highway Traffic Safety Administration. The testing, collection and certification of

personnel to collect the urine sample will be conducted in conformance with 49 C.F.R. A, C, D, E, and F. All testing laboratories shall be located in the United States and shall be certified by the Health and Human Services under the National Laboratory Certification Program. Testing

procedures will comply with Federal Motor carrier regulation. 49 C.F.R. part 40.

Individual test

reports will be maintained in each employee's confidential file. However, if the test was triggered

by reasonable suspicion and the test result was negative or a split sample was tested and the

result was negative, all documentation concerning the reasonable suspicion shall be removed

from the employee's personnel file. This does not preclude the Town from taking disciplinary

action, if appropriate, based on incompetence and/or misconduct.

Six types of drug and alcohol tests are required under federal regulation: pre-employment,

random, reasonable suspicion, return to duty, follow-up and post-accident.

1. All applicants for employment will submit to drug testing.

2. Throughout the year, drivers are subject to unannounced testing on a random basis. The

total number of covered employees randomly selected for testing during the calendar year

shall be equal to a minimum annual percentage rate of 50% of the total number of covered

employees subject to drug testing. The minimum annual percentage rate for random alcohol testing shall be 25% of covered employees. Since drivers are chosen at random throughout the year, each individual driver may not be tested or may be tested once, twice

or more in a given year. There shall be no loss or deductions made from an employee's time allowances for purposes of testing, including travel time.

3. A driver shall submit to testing, upon reasonable suspicion, when requested to do so by the

Town. Conduct triggering testing under this part must be directly observed by a supervisor

or Town official. The supervisor or Town official making this determination must have received training in the identification of behavior indicative of use of a controlled substance

per 49 C.F.R. 382.603. Documentation of the driver's conduct shall be prepared and signed by the witness within 24 hours.

4. If a driver who violates this policy is allowed to return to duty, a test will be conducted prior to the performance of a safety-sensitive function. In addition, the driver will be subject to unannounced follow-up testing. The frequency of such tests will be prescribed by a substance abuse professional and will consist of a minimum of 6 tests in the first 12 months following the driver's return to duty.

5. The employer will test for alcohol and drugs as soon as possible after an accident, if the driver receives a citation under State or local law for a moving traffic violation arising from the accident or if there is a fatality. The alcohol test should be performed within 2 hours of the accident. If not tested within 2 hours, the driver may be tested for alcohol up to 8 hours following the accident. The drug test will be performed within 32 hours of the accident. Accident shall be defined as any occurrence involving a commercial motor vehicle operation on a public road in commerce which results in a fatality; or the driver receives a citation within 32 hours of the occurrence under state or local law for a moving traffic violation arising from this accident if the accident involved bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident, or one or more of the motor vehicles involved in the accident is transported away by a tow truck or other motor vehicle.

Drug testing is done by means of urine collection and analysis. Trained personnel in accordance with DOT regulations will collect the specimen. The specimen is divided into 2 separate containers (the primary sample and the split sample) and sealed in a tamper-evident container and shipped to a NIDA-certified lab for testing. Laboratory test results are reported to the medical review officer (MRO). Each specimen receives a screening test and, if that test is positive, a confirmation test. Before reporting a positive test to the employer, the MRO will attempt to contact the driver to discuss the test results. If the MRO is unable to contact the driver directly, the MRO will contact the employer's Drug Program Administrator who will contact the employee. If no legitimate explanation for the positive test is found, the MRO will report the test as positive. If there is a valid explanation for the positive test other than illegal drug use, the MRO will report the test as negative. A test showing the presence of a medication, which the employee has used in accordance with a valid prescription, will be considered a negative test, unless the employee drove in violation of the physician's order prohibiting driving.

In the event of a positive drug test, the employee has the right to request that the split sample be sent to a different certified lab for testing. The Town shall pay the costs for

the split sample test. This request must be made within 72 hours of the time the driver was informed of the results by the MRO.

### Procedures for Alcohol Tests

Certified breath alcohol technicians will perform these tests using evidential breath testing devices. If the test shows a result less than 0.02, the test is considered negative. If the alcohol concentration is 0.02 or greater, a confirmation test must be conducted. The confirmation test will be performed fifteen minutes after the initial test and the results of this test determine what action will be taken.

Drivers who are known to have engaged in prohibited behavior with regard to alcohol misuse or use of controlled substances are subject to disciplinary action and penalties pursuant to Town policy and collective bargaining agreements, as well as other sanctions provided for in State and/or federal law.

1. Applicants for employment who test positive for drugs will not be hired.
2. Employees who test positive may be required to be evaluated by a substance abuse professional (SAP) and complete any requirements for rehabilitation as set by the Town and the SAP.
3. A driver who, after providing an adequate breath specimen, has a confirmatory test which registers between 0.02 and 0.04, at a minimum, must be suspended without pay until his/her next regularly scheduled duty period, but for no less than 24 hours and may be subject to additional disciplinary action by the Town, up to and including discharge.
4. A driver who tests positive for drugs, or after providing an adequate breath specimen, has a confirmatory test which registers 0.04 or greater will, at a minimum, be suspended without pay until his/her next regularly scheduled duty period, but for no less than 24 hours, and may be subject to additional disciplinary action by the Town, up to and including discharge. In order to be eligible to return to duty after a positive drug test or an alcohol level of 0.04 or higher, a driver must complete the course of rehabilitation prescribed by the substance abuse professional and undergo a return-to-duty test with a negative result. After returning to work, the driver must continue in an after-care program and be subject to follow-up testing, in accordance with the recommendation of the SAP and consistent with the regulation. The employee shall be able to use all time accruals during rehabilitation (in-patient and/or out-patient) and make application to the Town for leave of absence during a period of absence that is not a disciplinary suspension without pay.

### Consequences of Refusing a Drug or Alcohol Test

The consequences of refusing a test are the same as testing positive. A refusal to submit to an

alcohol or controlled substance test is defined as a driver who (1) fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the

requirement for breath testing; (2) fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing; or (3) engages in conduct that clearly obstructs the testing process.

All employee drug and alcohol testing will be kept confidential and shall only be revealed without the driver's consent to the employer, a substance abuse professional, drug testing laboratory, medical review officer and other individual designated by law. Any other release of this information is only with the employee's written consent. If an employee initiates a grievance, hearing, lawsuit or other action as a result of a violation of these rules, the employer may release relevant information to the decision maker. If an employee is licensed, documented, or certificated by a DOT agency, relevant information may be released to the decision maker in any DOT agency revocation or suspension action to the extent required by law.

#### **418 Town Hall Snow Closing (inclement weather) Policy**

Town Hall will follow the (MCSD) Marlboro Central School District delays and closings for inclement weather as follows:

1. When MCSD has a one-hour delay, Town Hall is on a one-hour delay
2. When MCSD has a two-hour delay, Town Hall is on a two-hour delay
3. When MCSD closes, the Town Hall will remain on a two-hour delay

In cases of serious emergency or when the operation of Town facilities could be hazardous to the lives of employees, the Supervisor may declare an emergency day and close Town Hall.

In the case Town Hall is not closed and an employee needs to take the day off, the said employee will need to utilize personal time for any hours not allocated in the snow policy.

Notification will be sent out to residents via Town Facebook and Town website

#### **419 Cell Phone Reimbursement Policy**

Each Town Board Council member, the Town Supervisor, the Secretary to the Supervisor, and the Budget Officer shall be reimbursed thirty dollars (\$40.00) a month for his/her cell phone use. The one-time payment of (\$480.00) for the year will be paid in the last payroll of the year.

#### **420 Work from Home Policy**

Each employee who has been issued a laptop for the purpose of emergency work from home use, can only do so with the permission of the Supervisor.

#### **421 Comp Time Policy**

1. Comp time needs to be approved by the Department Head and the Supervisor
2. Comp time needs to be used within the calendar year it was approved
3. Comp time cannot be accrued from year to year
4. Any unused comp time not used in the calendar year will be lost.

## **422 Sexual Harassment Prevention**

## **SEXUAL HARASSMENT PREVENTION**

The Town is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of the Town's commitment to a discrimination-free work environment. Sexual harassment is against the law<sup>1</sup> and all employees have a legal right to a workplace free from sexual harassment and employees are urged to report sexual harassment by filing a complaint internally with the Town. Employees can also file a complaint with a government agency or in court under federal, state or local antidiscrimination laws.

### **Policy:**

1. The Town policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with the Town. In the remainder of this document, the term "employees" refers to this collective group.
2. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).
3. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. The Town will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of the Town who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. All employees, paid or unpaid interns, or non-employees<sup>2</sup> working in the workplace who believe they have been subject to such retaliation should inform a supervisor, manager, Town Supervisor, Town Board Member or Human Resources Department. All employees, paid or unpaid interns or non-employees who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.
4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject the Town to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual

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<sup>1</sup> While this policy specifically addresses sexual harassment, harassment because of and discrimination against persons of all protected classes is prohibited. In New York State, such classes include age, race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, domestic violence victim status, gender identity and criminal history.

<sup>2</sup> A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, "gig" workers and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer.

harassment or who allow such behavior to continue, will be penalized for such misconduct.

5. The Town will conduct a prompt and thorough investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. The Town will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.
6. All employees are encouraged to report any harassment or behaviors that violate this policy. The Town will provide all employees a complaint form for employees to report harassment and file complaints.
7. Managers and supervisors are **required** to report any complaint that they receive, or any harassment that they observe or become aware of, to the Town Supervisor or any member of the Town Board, also to Human Resources Department.
8. This policy applies to all employees, paid or unpaid interns, and non-employees and all must follow and uphold this policy. This policy must be provided to all employees and should be posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and be provided to employees upon hiring.

#### **What Is "Sexual Harassment"?**

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to

the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment.

Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

#### **Examples of sexual harassment**

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
  - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee's body;
  - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
  - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments;
  - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
  - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:
  - Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
  - Sabotaging an individual's work;
  - Bullying, yelling, name-calling.

#### **Who can be a target of sexual harassment?**

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent

contractors, and those employed by companies contracting to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

**Where can sexual harassment occur?**

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

**Retaliation**

Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in "protected activity." Protected activity occurs when a person has:

- made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
- opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- reported that another employee has been sexually harassed; or
- encouraged a fellow employee to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

**Reporting Sexual Harassment**

**Preventing sexual harassment is everyone's responsibility.** The Town cannot prevent or remedy sexual harassment unless it knows about it. Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, manager or Town Supervisor, Town Board Member or Human Resources Department. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager or Town Supervisor, Town Board Member or Human Resources Department.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf.

Employees, paid or unpaid interns or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

#### **Supervisory Responsibilities**

All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, are required to report such suspected sexual harassment to the Town Supervisor or any member of the Town Board, also to Human Resources Department.

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Supervisors and managers will also be subject to discipline for engaging in any retaliation.

#### **Complaint and Investigation of Sexual Harassment**

All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, and will be confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. The Town will not tolerate retaliation against employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations should be done in accordance with the following steps:

- Upon receipt of complaint, Human Resources Department will conduct, or cause to be conducted an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If complaint is verbal, encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, prepare a Complaint Form based on the verbal reporting.

- If documents, emails or phone records are relevant to the investigation, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses;
- Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
  - A list of all documents reviewed, along with a detailed summary of relevant documents;
  - A list of names of those interviewed, along with a detailed summary of their statements;
  - A timeline of events;
  - A summary of prior relevant incidents, reported or unreported; and
  - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- Keep the written documentation and associated documents in a secure and confidential location.
- Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
- Inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section.

#### **Legal Protections and External Remedies**

Sexual harassment is not only prohibited by the Town but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at the Town, employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal protections.

#### **State Human Rights Law (HRL)**

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time **within one year** of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, **within three years** of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to the Town does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: [www.dhr.ny.gov](http://www.dhr.ny.gov).

Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

#### **Civil Rights Act of 1964**

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov).

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

#### **Local Protections**

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists.

**Contact the Local Police Department**

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

### HARASSMENT COMPLAINT FORM

Name of the Complainant:	
Department:	
Phone Number:	
E-mail:	
Today's Date:	
Name of the Accused:	
Department:	
Relationship of the Accused to the Complainant (manager, co-worker, client, etc.):	
Phone Number:	
E-mail:	
Date of Incident: (If more than one event, please report each event on a separate form.)	
Where did the specific event occur?	
Please explain the events that occurred.	
How did you react to the situation? Did you take any action to stop perceived inappropriate behavior (not required)?	
Describe the harm you have suffered as a result of the event.	
Were there any witnesses to this specific event? (If yes, please provide their names.)	
Is there any physical evidence that supports your complaint? If so, please describe or attach copy of evidence.	
What would be your desired outcome of the investigation?	

Attestation:

The information provided in this complaint is true and correct to the best of my knowledge. I am willing to cooperate fully in the investigation of my complaint and provide whatever evidence the Town of Marlborough deems relevant. I understand that there will be no retaliation directed toward me for making this complaint or for participating in the investigatory process.

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

**Policy Receipt Acknowledgement for *Sexual Harassment Prevention***

**In effect: October 9, 2018**

I have read and been informed about the content, requirements, and expectations of the policy for employees at the Town of Marlborough. I have received a copy of the policy and agree to abide by the policy guidelines as a condition of my employment and my continuing employment at the Town of Marlborough.

I understand that if I have questions, at any time, regarding the Sexual Harassment Prevention policy, I will consult with my immediate supervisor or another member of management.

Please read the Sexual Harassment Prevention policy carefully to ensure that you understand the policy before signing this document.

Employee Signature: \_\_\_\_\_

Employee Printed Name: \_\_\_\_\_

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

## **423 Lease Reporting Policy**

### **TOWN OF MARLBOROUGH**

#### **LEASE REPORTING POLICY**

##### **1. Purpose**

The following lease reporting policy is established in order to provide guidelines and controls over the reporting of lease contracts, whether as lessor or lessee, and to meet financial reporting needs in accordance with New York State Office of the State Comptroller (NYSOSC) standards.

##### **2. Capitalization Thresholds**

The Town has established a minimum capitalization threshold of \$100,000. Any leases costing below this threshold as determined below will not be subject to the capitalization process and will be reported as an expenditure in the appropriate fund category.

Each lease contract will be evaluated individually to determine if capitalization is required. In addition, the entire portfolio of leases, in which the Town Board is either the lessor or the lessee, will be evaluated in aggregate to determine if capitalization is required. The \$100,000 threshold applies separately to the aggregate of all lessor leases and the aggregate of all lessee leases.

This aggregate evaluation will occur each time the Town Board contracts with a new lessee or lessor.

The Town Board will report the lessor and lessee activity following the New York State Office of the State Comptroller (NYSOSC) General Ledger account structure and guidance available of the NYSOSC website pertaining to leases.

##### **3. Capitalization Method and Procedure**

If Lessor: The Town of Marlborough will calculate the lease receivable at the commencement of the lease term. The lease receivable equals the present value of the payments expected to be received during the lease term using a discount rate as defined in the NYSOSC standards. In addition, the Town of Marlborough will calculate the deferred inflow of resources, which is equal to the lease receivable less any lease payments received prior to the lease commencement, if applicable, less any incentives paid to the lessee at or before the commencement of the lease term, if applicable.

If Lessee: The Town of Marlborough will calculate the lease liability at the commencement of the lease term. The lease liability equals the present value of the payments expected to be made during the lease term using a discount rate as defined in the NYSOSC standards. In addition, the Town of Marlborough will calculate the Right To Use (RTU) lease asset, which is equal to the lease liability plus lease payments paid prior to the lease commencement, if applicable, plus initial direct costs to place the asset into service, if applicable.

##### **4. Amortization Method**

If required under NYSOSC standards, the Town of Marlborough will utilize the straight-line methodology for amortizing capitalized leases. Amortization will begin in the month the lease commenced.

## **424 Child and Youth Abuse Prevention Program**

# **CHILD AND YOUTH ABUSE PREVENTION PROGRAM**

### **Introduction**

To help protect children, **The Town of Marlborough (the “Town”)** has adopted the following Child and Youth Abuse Prevention Program. It is important that all **Town** paid staff and volunteers understand and implement these guidelines to help prevent sexual abuse against children. The following includes the Purpose and Definitions for these guidelines, the outlines of Protection and Prevention, and an Acknowledgement to be signed by those people working with children.

### **Purpose**

These procedures are designed to reduce the risk of child sexual abuse in order to:

1. Provide a safe and secure environment for children, youth, adults, members, volunteers, visitors, and paid staff.
2. Assist the **Town** in evaluating a person's suitability to supervise, oversee, and/or exert control over the activities of children and youth.
3. Satisfy the concerns of parents and staff members with a screening process for paid staff and volunteers.
4. Provide a system to respond to alleged victims of sexual abuse and their families, as well as the alleged perpetrator.
5. Reduce the possibility of false accusations of sexual abuse made against volunteers and paid staff.

### **Definitions**

The following terms used herein are defined as follows:

1. *Paid Staff*: a Town employee who is paid.
2. *Children/Youth/Minor*: Any person who has not reached his/her 18th birthday or the age of majority as defined by state law.

3. *Adult*: Any person who has reached his/her 18th birthday or as defined by state law.
4. *Volunteer*: An unpaid person engaged in or involved in activities and who is entrusted with the care and supervision of minors or a person who directly oversees and/or exerts control or oversight over minors or adults.
5. *Sexual Abuse*: The employment, use, persuasion, inducement, enticement, or coercion of any minor or adult to engage in, or assist any other person to engage in, any sexually explicit conduct or any simulation of such conduct for the purpose of producing any visual depiction of such conduct, or rape, statutory rape, incest, molestation, prostitution, or other form of sexual exploitation of minor or adult, or sexual assault, or as defined by federal and state law. This includes and is not limited to unwelcome sexual remarks, jokes, advances, leering, whistling, or sexual gestures; sexual touching, fondling, molestation, assault, or other intimate physical contact; compelling another person to engage in a sexual act by threats or fear or undue influence; and providing or displaying pornographic materials to another person.
6. *Child Emotional Abuse*: Verbal or nonverbal conduct including mental exploitation, degrading communication, or humiliating or threatening conduct that may or may not include bullying or as defined by state law.

## **Protection and Prevention**

### **Volunteer and Employee Screening Procedures**

The following screening procedures are to be used with paid staff and volunteers who are entrusted with the care and supervision of minors or a person who directly oversees and/or exerts control or oversight over minors. All information collected should be maintained in confidence.

1. *Employment Application*: Any paid staff and volunteers who will work with a minor must complete the Employment Application and the New York State Central register database check and will be subject to a background check including appropriate inquiries regarding any previous record of sexual abuse or other unlawful activity.

NYS Central Database questions include

- Current and previous residence addresses.
- Current and previous employment, including addresses, dates, duties, titles, and reasons for leaving.

2. Conduct interviews with qualified applicants.
3. Contact all listed references for volunteers. Contact each of the volunteer applicant's references and ask for any information that might help determine the applicant's suitability for the position. If a response is not received within a reasonable period of time, follow up and keep notes if possible.
4. Contact all listed references and employers for paid staff. Inquire as to the reason the applicant left and ask for any information that might help determine the applicant's suitability for the position. If a response is not received within a reasonable period of time, follow up and keep notes if possible.
5. *Criminal Background Check*: the **Town** will conduct a criminal background check on all paid staff and volunteers who are entrusted with the care and supervision of minors or a person who directly oversees and/or exerts control or oversight over minors. All criminal background checks will be updated periodically.

### **Confidentiality**

Information obtained through the screening, application, reference check, interview, and criminal background check will be kept in confidence, unless otherwise required by law. All information discovered or obtained through the above-referenced means will be kept in a secure location and access to it will be restricted in accordance with this policy and applicable law. These materials will be archived.

## **Supervision Procedures**

Unless an extenuating situation exists, the **Town**:

1. Will have adequate number of screened and trained paid staff present at camp
2. Will monitor facilities during activities involving children.
3. Will release minors only to a parent or guardian and utilize sign-in and sign-out sheets.
4. Will obtain written parental permission, including a signed medical treatment form and emergency contacts, before taking minors on trips and should provide information regarding the trip.
5. Will designate a "confidential counselor" to whom any minor can go at any time, without special permission, to discuss any problems he or she is having. This person usually will be the Camp Director or Assistant Director

## **Disqualification**

No person may be entrusted with the care and supervision of minors or may directly oversee and/or exert control or oversight over minors who has been convicted of the offenses outlined below, been on a probated sentence or received deferred adjudication for any offense outlined below, or has presently pending any criminal charges for any offense outlined below until a determination of guilt or innocence has been made, including any person who is presently on deferred adjudication. The following offenses disqualify a person from care, supervision, control, or oversight of minors:

1. Any offense against minors as defined by state law.
2. A misdemeanor or felony offense as defined by state law that is classified as sexual assault, indecency with a minor or adult, assault of a minor or adult, injury to a minor or adult, abandoning or endangering a minor, sexual performance with a minor or adult, possession or promoting child pornography, enticing a minor, bigamy, incest, drug-related offenses, or family violence.
3. A prior criminal history of an offense against minors.

## **Response to Sexual Abuse**

All accusations of sexual abuse will be taken seriously and reported to the appropriate authorities. It is important to be appropriately respectful to the needs and feelings of those who allege sexual abuse and those who have been accused of sexual abuse.

**When an allegation is made involving sexual abuse, the person reporting the complaint is to report to the Town Supervisor and be told about the guidelines and the procedures to be followed. An appointed person will report the allegations and may use the assistance of legal counsel or other consultants. If the Town Supervisor is the individual accused of sexual abuse, then the Chef of Police will be notified. The investigation will be conducted as follows:**

1. Report the incident to appropriate authorities in accordance with the state mandatory reporting laws.
2. Report the matter to **the Town's** insurance carrier.
3. Cooperate with authorities and the insurance carrier.
4. The **Town** may suspend (with pay for paid staff) the alleged offender while a confidential investigation is being conducted.
5. An official of the **Town** (and legal counsel or other consultants) will then meet with the governing body of **the Town** and present a report on their investigation, which will include findings and recommendations of actions.
6. An official of the **Town** will meet with the alleged perpetrator and notify him/her of the results of the investigation and recommendations for actions.
7. An official of the **Town** will meet with the alleged victim, along with his/her parents or guardians, and notify them of the results of the investigation and recommendations for actions.
8. During the investigation, an official of the **Town of Marlborough** shall maintain contact with the alleged victim and his/her parents or legal guardian, and inform them of the actions taken and assist them in their process of healing.
9. An official of the **Town** (and legal counsel or other consultants) may meet with the alleged perpetrator, the alleged victim, and any others with knowledge of relevant facts.
10. Communicate with legal counsel of the **Town**.
11. Communicate with those affected by the actions of the alleged perpetrator.

## **Child and Youth Abuse Prevention Program Acknowledgment**

These guidelines have been designed to guide and assist you when working with minors. The information establishes general practices and guidelines and should not be construed in any way as a contract of employment or continued employment. The **Town of Marlborough** reserves the right to make changes in the content or application of this program and to implement those changes with or without notice.

The terms defined herein are defined for the purposes of the program and do not suppose or establish a legal relationship. These terms are not defined for the purposes of creating a legal relationship with the **Town of Marlborough** or any related or associated entity and instead are to be used with this document.

I have received a copy of the **Town of Marlborough's** Child and Youth Abuse Prevention Program. I understand it is my responsibility to become familiar with and adhere to the information contained herein. I understand that these policies are the property of the **Town of Marlborough**.

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Print Name

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Signature

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Date