

Personnel Rules Town of Bar Harbor

Council Adoption - June 21, 2016

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PREAMBLE

The Town Council of the Town of Bar Harbor hereby adopts, pursuant to Article 5, Part 2, Section 504 of the Town of Bar Harbor Charter, as revised June 13, 1978 the following Personnel Rules for utilization by the administration and employees of the Town of Bar Harbor. The general purpose of this policy is to establish a system of personnel administration that meets the social, economic and program needs of the people of Bar Harbor. Further, its purpose is to serve to increase the general efficiency in the Town by promoting and assuring equal rights, well being and security of all its employees. The Town may delete, amend, modify or change any or all of the provisions contained in these rules without prior notice. The provisions set forth in these rules are not contractual, but rather, are for the general guidance of the Town in its relationship with its employees.

1.0 DEFINITIONS:

The following definitions shall be used in the interpretation of these rules.

1.1 Appointing Authority - Shall mean the Town Manager, when referring to all Department Head positions, and to the Department Head, when referring to positions supervised by the Department Head.

1.2 Days - Unless otherwise stated, a “day” means a calendar day.

1.3 Department Head - Shall consist of the Town Clerk, Fire Chief, Police Chief, Public Works Director, Harbor Master, Planning Director, and Finance Director.

1.4 Employee - denotes any person appointed to a regular full-time or part-time position by the appointing authority.

1.5 Employee, Regular - means the Harbormaster and any employee who is scheduled to work year-round for not less than thirty-seven (37) hours per week.

1.6 Employee, Part-Time – denotes an employee who is scheduled to work more than twenty (20) and less than thirty-seven (37) hours per week. Employees in this category receive vacation leave, holiday leave, sick leave, but no insurance benefits or other fringe benefits.

1.7 Employee, Seasonal - denotes an employee who is appointed to a position working a full work week, but for a finite season, such as summer, winter, etc. Employees in this category receive no benefits.

1.8 Employee, Temporary - denotes an employee who works for a finite period of time less than six months. Employees in this category receive no benefits.

1.9 Family, Immediate - includes father, mother, sister, brother, spouse, child, stepparents, grandparents, step-children, parents-in-law or foster parents.

1.10 He, She, Him, Her, His, Hers - denotes both female and male employees and is used here only as a matter of convenience.

1.11 Pay Period - consists of two consecutive work weeks.

1.12 Work Week - shall consist of the days Sunday through Saturday.

1.13 Family - For the purposes of Health Insurance coverage, family will include wife, husband, legally dependent children, and domestic partner as defined by the affidavit provided by the Maine Municipal Employee Health Trust.

2.0 APPLICABILITY:

These Personnel Rules shall apply to all employees, except that the following chapters and sections shall not apply to employees subject to a written contract or collective bargaining agreement nor to part-time and temporary employees unless explicitly stated in those chapters: Chapters 6, 7, 8, 9, 10, 11, 12, 13, 18, 19, 20, 22, 23, and 34 and Section 4.2. School Department employees are not covered by these personnel rules.

3.0 ADMINISTRATION:

The Town Manager shall be the Personnel Administrator. It shall be the duty of the Town Manager to: (1) encourage and exercise leadership in the development of the Town personnel practices among departments of the Town; (2) advise the Town Council on manpower utilization; (3) foster and develop programs for the improvement of employee effectiveness including training, safety, health, counseling, proper courtesy when dealing with the public and respect for municipal property; (4) establish and maintain records of all employees in the public service in which there is set forth as to each employee the title, pay or status, sick leave, vacation time and other relevant data; apply and carry out these rules and perform any act which may be necessarily desirable to carry out for the purposes and provisions of these Personnel Rules.

3.1. Equal Employment Opportunity

The Town provides equal employment opportunity to all applicants and employees. This policy applies to all employment-related decisions, including recruiting, hiring, assigning, supervising, training, upgrading, transfer, compensation, benefits, discipline, discharge, promotion, and education. The Town will not discriminate in employment opportunities or practices against any individual with regard to race, color, ancestry, national origin, religion, political affiliation, sex, marital status, age, sexual orientation, physical or mental disability, or any other status protected by law.

The Town will make reasonable accommodations for applicants and qualified individuals with known disabilities unless doing so would result in an undue hardship to the town.

Any employees with questions or concerns about any type of discrimination in the workplace are encouraged to bring these issues to the attention of their immediate supervisor, Department Head

or the Town Manager. Employees can raise concerns and make reports without fear of reprisal. Anyone found to be engaging in any type of unlawful discrimination will be subject to disciplinary action, up to and including termination of employment.

4.0 APPOINTMENT AND EMPLOYMENT:

4.1 Appointment - Appointment to any position within the employ of the Town will be by the Town Manager, except that positions of Department Head status are appointed by the Town Manager and confirmed by the Town Council. The Town Manager may delegate this responsibility to the Department Heads, as provided by Charter Section 4.04 (f). Applicants may be required to submit to various employment tests before employment. Other than for positions governed by law or regulations, there is no arbitrary age limit below or beyond which applicants will be employed, provided they are qualified to perform the work required. No more than one member of an immediate family may be employed as a regular employee in any one department at the same time, nor can an employee be hired or promoted into a position in which he or she would supervise or be supervised by any member of his or her immediate family.

Once appointed, all employees are considered probationary for the first six (6) months of employment. An employee may be terminated without cause and without recourse to the grievance procedures contained in section 22 at any time during this probationary period.

4.2 Lay-off - Any employee who is laid off and who shall have had a good record as of the date of termination shall be given preference over other new applicants for any new positions or positions which are vacated; provided, however, they shall have qualifications equal to those of other applicants. Regular employees shall be laid off in the inverse order of their seniority. However, Department Heads may demote an employee to a lower class of position than that to which the employee is qualified rather than laying the employee off. No regular employee shall be laid off until he has been given at least two weeks notice before the effective date of lay-off. Non-regular employees may be laid off at any time without regard to provisions of this section.

4.3 Evaluation

An evaluation is the examination and review of job performance for purposes of determining continuation of employment, promotion, demotion or salary adjustment. Employees shall be evaluated within one month prior to the completion of the initial probationary period and once each year thereafter. Evaluations will be conducted by the immediate supervisor in a manner which the supervisor shall prescribe.

Employees shall be afforded the opportunity to review and discuss their written evaluation with their immediate supervisor and shall sign the evaluation as proof of discussion and understanding even if the employee may not agree with the contents. An employee may prepare a written response to the evaluation. This response shall be submitted to the individual who performed the evaluation and will become part of the evaluation. A copy of the complete evaluation will be provided to the employee and placed in his/her personnel file.

5.0 ATTENDANCE:

Employees shall be at their respective places of work in accordance with the general or departmental regulations pertaining to the hours of work. All Department Heads shall insure that each employee is aware of regular work hours for their respective groups and shall keep daily attendance records and furnish them to the Finance Director at least every two weeks. Persons arriving before the designated hour for work to begin shall be allowed on premises but shall not engage in work activities and will not receive compensation for this time, unless previously authorized.

6.0 VACATIONS:

6.1 Accrual Schedule: Employees shall accrue vacation leave according to the following schedule:

Years of Service	Days of Vacation
1 – 5	10 days
6	11 days
7	12 days
8	13 days
9	14 days
10	15 days
11	16 days
12	17 days
13	18 days
14	19 days
15	20 days
18	21 days
21	22 days
24	23 days
27	24 days
30	25 days
33	26 days

Exempt salaried employees shall receive an additional five (5) days of vacation leave per year, in recognition of the fact that they receive no additional compensation for additional hours worked.

For purposes of computing leave entitlement, if an employee regularly works an eight (8) hour day, their leave day is eight hours long. If they regularly work a six hour day, their leave is six hours long, etc.

6.2 Accrual Limit: Vacation leave shall accrue at a rate of 1/26th of the employees entitlement (on their next anniversary date) per pay period. The anniversary date is defined as the last regular (not temporary or part-time) date of hire. Years of service shall be computed from the last date of regular hire to the most recent anniversary date. Additional vacation leave shall not accrue if, at

the employee's anniversary date, their total accrual is greater than twice their vacation entitlement. The accrual will not start again until the employees balance is below the above-mentioned limit plus any un-accrued time since their anniversary date.

6.3 Scheduling: Vacation shall be granted on a first come, first served basis. The supervisor shall approve all vacation usage.

7.0 HOLIDAY LEAVE:

7.1 Paid Holidays – All regular and part-time employees including those on probation shall be entitled to the following paid holidays:

New Year's Day (Jan. 1)	Labor Day (First Monday in September)
Martin Luther King Day (3rd Monday in Jan.)	Veteran's Day (November 11)
Presidents' Day (3rd Monday in February)	Thanksgiving Day (Last Thurs. in November)
Patriot's Day (3rd Monday in April)	Day after Thanksgiving (Last Friday in November)
Memorial Day (Last Monday in May)	Christmas Day (December 25)
Independence Day (July 4)	

Paid holidays falling on a Saturday shall be celebrated on the preceding Friday. Paid holidays falling on a Sunday shall be celebrated on the following Monday.

7.2 Holidays Worked -

- A. Salaried employees shall receive no additional holiday pay in excess of salary.
- B. Hourly Police and Fire Department employees shall receive a lump sum payment in December of each year for holiday pay; however, regular Police and Fire Department employees may take the paid holiday off at a different time in lieu of receiving holiday pay. New hires with less than one (1) year's service shall be paid on a pro-rated basis.

8.0 SICK LEAVE:

8.1 Accrual - Each regular and part-time employee shall earn sick time at the rate of one (1) day for each calendar month worked, accumulated to a maximum of 120 working days. This sick time will be accrued at a rate of 1/26th of the employee's yearly entitlement per pay period. For purposes of computing sick leave, if an employee regularly works an eight (8) hour day, their leave day is eight hours long. If they regularly work a six hour day, their leave is six hours long, etc.

8.2 Use - Sick leave may be used only in the following cases:

A. Personal illness or incapacity.

B. Personal illness or physical incapacity of the employee's immediate family, such that the employee's attendance is required.

C. Appointments of the employee or immediate family with a medical provider, but only if this cannot be scheduled during non-working hours.

8.3 No Payout - Sick leave is a privilege granted by the Town for those persons when they are sick and unable to work. Therefore, sick leave may not be credited towards retirement time, vacation time or in any other way construed to be supplemental to salary or wages.

8.4 Abuse - Willful abuse of the sick leave privilege shall be cause for disciplinary action in accordance with the provisions of Article 23. Whether usage constitutes willful abuse will be within the discretion of the Town Manager.

8.5 Excuse May be Required - The Town, at its discretion, may require the employee to provide a written statement from the employee's physician showing the need for sick leave if it extends longer than three (3) consecutive days. The employee shall, when and at the time requested, advise the Town of his medical status and his availability for work. If the Town believes with good reason that an employee is abusing sick leave or shows a consistent pattern of suspected sick leave abuse, then the Town may take appropriate discipline in accordance with the disciplinary provisions of Article 23.

8.6 Notice to Supervisor - Employees to be absent shall report such fact to their supervisor within the first fifteen minutes of the working day, together with the reason for their absence, except that in the Police Department, the Policy and Procedure Manual shall govern.

8.7 Sick Leave Transfer - Upon a written request from an employee, the Town Council may, in its sole discretion, allow any other employee to donate sick leave days from his/her sick leave account to another Town Employee who has depleted his/her sick leave account. (Amended May 5, 1992).

Employees who donate vacation/sick time from their unused balance must adhere to the following requirements: 1) the minimum that an employee can donate per request is 1 day (pro-rated if the donor and donee work a different number of hours per day); and, the maximum that any employee can donate per request is 10 days, but no more than 50% of that employee's current balance; 2) employees cannot borrow against future vacation/sick time to donate; 3) employees who receive donated vacation/sick time may receive no more than 60 days within a rolling 12 month period; 4) employees who are currently on an approved leave of absence cannot donate vacation/sick time.

Employees who would like to make a request to receive donated vacation/sick time are required to complete a written request which will include authorization to present the request to the employees of the Town for the sole purpose of soliciting donations. Employees who wish to

donate vacation/sick time to a co-worker in need must complete a written donation confirmation. Requests for donations of vacation/sick time and any such donations must be approved by the Town Manager.

If the recipient employee has available vacation/sick time in his/her balance, this time must be used prior to applying any donated vacation/sick time. Donated vacation/sick time may only be used for time off related to the approved request. Vacation/sick time donated that is in excess of the time off needed will be returned to the donor.

9.0 BEREAVEMENT LEAVE:

A regular employee shall be allowed up to three (3) working days with pay in the event of a death in the immediate family. Special consideration may be made by the Town Manager when exceptional or unusual circumstances are a factor. Leave of up to one day may be granted at the discretion of the Town Manager to attend the funeral of a distant relative or friend.

10.0 LEAVE OF ABSENCE:

A regular employee who needs an absence from work for a reason other than those covered elsewhere in these policies may be granted a leave of absence without pay by the Town Manager for a period not in excess of one year. An employee desiring such time off must apply in writing to the Town Manager at least one week in advance of the requested leave, when possible. The request must specify the reasons for the leave and the length of time requested. Such requests will be evaluated on an individual basis by the Town Manager, with input by the Department Head or other supervisor.

Upon completion of the leave of absence the employee may be able to return to their regular position if that position is still available and suitable. In the event the position has been abolished or reassigned in their absence or is otherwise no longer available or suitable, the employee shall be given a position of equal classification, status and salary if such position is available. If no such positions are available, the employee may apply for any other job that is vacant and for which the employee is qualified. If no such positions exist or if the employee is not the best candidate for such position, the employee's employment may be terminated. Failure to use the leave of absence for the purposes for which it was originally approved or failure to comply with these provisions could result in termination or loss of seniority rights for the employee involved. No employee shall receive salary or benefits while on leave of absence. Insurances may be continued at 100% employee expense. When computing length of service for any reason, time spent on leave of absence will not be included. In effect, this changes the anniversary date of the employee for vacation increases and other benefits.

The granting or denial of a leave of absence under this section shall be solely within the discretion of the Town Manager and shall not be subject to the grievance procedure.

11.0 MILITARY LEAVE:

The Town of Bar Harbor complies with state and federal military leave laws. Any individual with questions about such leave should direct them to their supervisor or Department Head.

12.0 JURY LEAVE:

The Town shall pay the regular rate of pay to an employee while on jury duty for a period of up to 30 days. The employee shall surrender all jury pay to the Town for any day during which the Town is paying the employee's regular pay. Employees excused from jury duty must report back to work if excused from jury duty during normal working hours.

13.0 FAMILY LEAVE:

The purpose of this section is to comply with the Maine Family Medical Leave Requirements Act, 26 M.R.S.A. sub chapter 843 et seq. Any terms used herein that are defined in said act shall have the meaning prescribed by said act. Nothing herein is intended to be or shall be deemed to be inconsistent with said act.

13.1 State law permits an eligible employee to take up to 10 weeks of unpaid leave during a 2 year period. In order to qualify for state FMLA leave, an employee must have worked for the Town for at least 12 consecutive months prior to the need for the leave.

Leave under the state FMLA is available for the following reasons:

- A serious health condition of the employee;
- The birth of the employee's child or the employee's domestic partner's child;
- The placement of a child age 16 or less with the employee or with the employee's domestic partner in connection with the adoption of the child by the employee or the employee's domestic partner;
- A spouse, domestic partner, child, domestic partner's child, or parent with a serious health condition;
- The donation of an organ of the employee for a human organ transplant; or,
- The death or serious health condition of the employee's spouse, domestic partner, parent, or child if the spouse, domestic partner, parent or child as a member of the state military forces, or the US Armed Forces, including the National Guard and Reserves, dies or incurs a serious health condition while on active duty.

13.2 Serious Health Condition - "Serious health condition" means an illness, injury, impairment or physical or mental impairment that involves":

- A. inpatient care in a hospital, hospice or residential medical care facility; or
- B. continuing treatment by a health care provider.

13.3 Family Medical Leave Entitlement - The following conditions apply to family medical leave:

- A. The employee must give at least 30 days notice of the intended date upon which family medical leave will commence and terminate, unless prevented by medical emergency from giving that notice;
- B. The Town may require certification from a physician to verify the entitlement to and amount of leave requested by the employee; and
- C. The Town and employee may negotiate for more or less leave, but both parties must agree.

13.4 Unpaid Leave - Family medical leave shall consist of unpaid leave.

13.5 Leave taken intermittently or on a reduced leave schedule.

Intermittent or reduced leave schedule family medical leave may be taken subject to the following limitations. Leave taken for birth or adoption of a child may not be taken intermittently or on a reduced leave schedule unless the employee and the Town agree otherwise. Leave for an employee's serious health condition, the employee's defined family member's serious health condition, or organ donation may be taken intermittently or on a reduced leave schedule when medically necessary. If the requested leave is foreseeable based on planned medical treatment, the Town may require the employee to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified and that: (1) has equivalent pay and benefits; and (2) better accommodates recurring periods of leave than the regular employment position of the employee.

13.6 Restoration - Any employee who exercises the right to family medical leave upon expiration of the leave, is entitled to be restored by the Town to the position held by the employee when the leave commenced or to a position with equivalent seniority status, employee benefits, pay and other terms and conditions of employment. This subsection does not apply if the Town proves that the employee was not restored as provided in this subsection because of conditions unrelated to the employee's exercise of rights under this section.

13.7 Maintenance of Employee Benefits - During any family medical leave taken under this section, the Town shall make it possible for employees to continue their employee benefits at the employee's expense.

13.8 Benefit Accrual - The taking of family medical leave under this section shall not result in the loss of any employee benefit accrued before the date on which the leave commenced.

13.9 Effect on Collective Bargaining - Nothing in this section may be construed to affect the Town's obligation to comply with any collective bargaining agreement or employee benefit plan that provides greater family medical leave rights to employees than the rights provided under this section.

13.10 Rights Not Diminished - The family medical leave rights mandated by this section may not be diminished by any collective bargaining agreement or by any employee benefit plan.

13.11 Contract Rights - Nothing in this section may be construed to affect or diminish the contract rights or seniority status of any other employee of the Town.

13.12 Unlawful Interference or Denial of Rights - The Town may not interfere with, restrain or deny the exercise of or the attempt to exercise any right provided by this section.

13.13 Unlawful Discrimination Against Exercise of Rights - The Town may not discharge, fine, suspend, expel, discipline or in any other manner discriminate against any employee for exercising any right provided by this section.

13.14 Unlawful Discrimination Against Opposition - The Town may not discharge, fine, suspend, expel, discipline or in any other manner discriminate against any employee for opposing any practice made unlawful by this section.

FEDERAL FAMILY MEDICAL LEAVE:

Employees who have worked for the Town for at least twelve (12) months and at least 1,250 hours during the prior twelve (12) months may take up to twelve (12) weeks of leave (FMLA leave) during a rolling 12 month period for the following reasons:

1. Birth and/or care of a child of the employee;
2. Placement of a child into the employee's family for adoption or by a foster care arrangement;
3. Care of the employee's spouse, child or parent who has serious health condition; or
4. Inability of the employee to perform the functions of the employee's position due to a serious health condition.
5. Servicemember family leave under FMLA. Upon proper certification, an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember is entitled to a total of 26 workweeks of leave during a 12-month period to care for the servicemember. The leave described in this paragraph shall only be available during a single 12-month period.

FMLA leave is unpaid, except that if an employee has accrued sick, compensation time, or vacation leave, the employee shall use such leave (in that order) before the leave becomes unpaid.

Depending on the circumstances, an employee may be entitled to State and/or Federal FMLA leave. An employee eligible for both forms of leave will be entitled to whichever law provides the greater benefit.

Where an employee requests intermittent leave or leave on a reduced hours basis due to a family member's or the employee's own serious health condition, the Town has the option, in its sole discretion, to require the employee to transfer to a temporary alternative position for which the employee is qualified and which better accommodates the intermittent leave or reduced hours leave than the employee's regular job. The temporary position will have equivalent pay and benefits as the employee's regular position unless the employee works a reduced amount of hours in which case the pay will be reduced in a corresponding manner.

When the necessity of leave is foreseeable due to the expected birth or placement of a child, the employee must provide the Town at least thirty (30) days' notice of the employee's intention to take leave. Where the necessity for leave is due to a family member's or an employee's own serious health condition and is foreseeable based on planned medical treatment, the employee must give at least thirty (30) days' notice, or as soon as practical if treatment starts in less than thirty (30) days, and make a reasonable effort to schedule the treatment so as not to unduly disrupt the operation of the Town, subject to the approval of the healthcare provider.

Any leave request based on a family member's or employee's own serious health condition must be supported by certification from a healthcare provider.

During family leaves of absence, the Town will continue to pay its portion of the health insurance premiums and the employee must continue to pay his/her share of the premium. If the employee does not return to work after the expiration of the leave, the employee may be required to reimburse the Town for payment of health insurance premiums during the family leave.

The Town may require an employee on FMLA leave to report periodically on his/her status and the intention of the employee to return to work, and also periodic re-certification of the medical condition. An employee taking leave due to the employee's serious health condition may be required to obtain certification that the employee is able to resume work.

Employees who return to work from family leave of absence within the twelve (12) weeks are entitled to return to their position or an equivalent position without loss of benefits or pay, unless (a) their employment with the Town would have terminated if no leave had been taken; (b) they have given notice of their intent to terminate their employment; or (c) they cannot, with or without reasonable accommodations, safely perform the essential functions of the position to which they may be restored.

14.0 LEAVE RECORDS:

The Town shall keep the official records of leave accrued and used. The Town shall give periodic reports to the employees showing the balances in their accounts. Employees are encouraged and required to report any discrepancies to their supervisor immediately.

15.0 WORKERS COMPENSATION:

Employees who are injured in the performance of their work may be entitled to Workers' Compensation benefits in an amount prescribed by and administered in accordance with state law. Employees may use accrued unused sick leave to supplement Workers' Compensation. The Town may initially send an injured employee to a physician of the Town's choice and at the Town's expense. The Town may also require a return-to-work medical evaluation.

All accidents or injuries, no matter how minor, must be reported immediately to the Department Head. The Department Head shall notify the Finance Director no later than the next business day. The Finance Director shall give notice to the Worker's Compensation carrier.

16.0 LIABILITY INSURANCE:

The Town of Bar Harbor maintains public official's liability insurance, ambulance malpractice insurance and police professional insurance and will pay the cost of legal defense expenses for its employees for actions that may arise out of the normal course of their work to the extent and under the circumstances permitted by the Town.

17.0 LIFE INSURANCE:

(moved to section 21)

18.0 RETIREMENT:

The Town will contribute to only one of the following retirement programs for all regular employees. The employee may choose either or neither program.

18.1 I.C.M.A Retirement Corporation - The Town will match the employee's contribution to this deferred compensation program up to 6.5% of the employee salary.

18.2 Maine Public Employees Retirement System - The Town will continue to contribute to the Defined Benefit MPERS program in such amounts as required by the agreement with MPERS. Employees currently participating in the MPERS will be allowed to continue to do so. Membership is an irrevocable decision.

18.3 Retirement Health Savings Plan - The Town agrees to provide a Retirement Health Savings (RHS) to employees. For employees who have accumulated their maximum amount of sick leave, the Town will calculate the amount of sick leave the employee would have earned beyond his/her maximum following each calendar year, the Town will then contribute twenty-five percent (25%) of that lapsed amount to the employee's RHS account. For example, if an employee reached his/her maximum accumulation of sick leave time (960) hours in this unit at the end of June and did not take any sick leave for the remainder of the calendar year, he/she would have earned an additional 48 hours of sick leave, the Town will credit to the individual's RHS account the dollar value of 25% of the 48 hours (12 hours) to the employee's RHS account. In addition employees who use 24 hours or less of sick leave per calendar year will have eight

(8) hours of pay credited to their RHS accounts. The Town will compute this contribution using the December 31st wage.

19.0 SOCIAL SECURITY:

The Town participates jointly with all employees in Social Security and it is a condition of employment that all regular employees contribute.

20.0 MEDICAL INSURANCE:

20.1 The Town will provide regular employees the choice of the Maine Municipal Employees Health Trust Point of Service (POS) Plan or the Town of Bar Harbor Alternative Coverage Plan (Opt Out). Employees taking health insurance shall contribute towards the cost of health insurance in an amount to be established by the Town. The Town may change the contribution formula or total level in its sole discretion.

20.2 Alternative Coverage Plans (Opt Out)

If a regular employee does not take the Town-offered insurance program and annually provides evidence that he/she and his/her family has comparable health insurance coverage, the Town will pay to the employee out-of-pocket health insurance expenses, including premiums, co-payments and deductibles for eligible procedures under the Town's insurance coverage up to what the employee would otherwise be entitled for each 12 month period of coverage. The method of reimbursement under this "opt out" option can be through one of two methods, selected by the employee once per year before the beginning of each calendar year.

A) Health Reimbursement Plan-qualified tax free direct reimbursements to employee.

B) Wage Stipend-bi-weekly payment of a stipend through payroll. This is a fully taxable method of reimbursement. The amount of stipend to be paid is an amount determined by the Town Council and adjusted from time to time. No submittal of medical receipts, etc. is required under this choice.

21.0 SUPPLEMENTAL INSURANCE:

Regular employees may elect to purchase other insurance programs through payroll deduction at group rates 100% employee cost.)

Group life insurance and group accidental death insurance are available to regular employees at the employee's expense. The option to join is at the employee's discretion at the time of employment, and the cost of participating while an active employee is borne by the employee. The Town assumes the cost for retired Maine PERS employees, if the employee was a member prior to retirement.

22.0 GRIEVANCE PROCEDURE:

The purpose of the grievance procedure is to settle the employee's grievance on as low an administrative level as possible so that a swift and efficient remedy may be found to the problem. Employees are encouraged to discuss problems openly and honestly with their supervisors prior to filing a grievance.

22.1 Grievance Defined - A grievance is hereby defined as any dispute, controversy or misunderstanding which may arise under the interpretation or application of these rules. Grievances filed must include a reference to the specific section alleged to be violated.

22.2 Step One - Within ten (10) days of the event giving rise to the grievance the employee shall file a written grievance with their supervisor. The supervisor shall hold a meeting regarding the grievance within five (5) days of the request. The supervisor shall have ten (10) days to provide a written response to the grievance after the meeting.

22.3 Step Two - In the event the decision of the supervisor as rendered in Step One is not acceptable to the employee, she shall have ten (10) days to notify the Town Manager in writing of her desire to pursue the grievance. The Town Manager shall hold a meeting regarding this grievance within fifteen (15) days of such a request. The Town Manager shall have ten (10) days in which to render a written decision of the grievance after the meeting.

22.4 Step Three - The employee may appeal the decision of the Town Manager to the Town Council only if the appeal relates to disciplinary action at the level of a suspension or higher. The employee must file a written notice of appeal with the Town Clerk within ten (10) days of notification of the Town Manager's decision in Step Two. The Town Council shall schedule the appeal to be heard within thirty (30) days of the Clerk's receipt of the notice of appeal. The Town Council shall render its decision and mail a copy to the employee within ten (10) days of the hearing. The decision of the Council shall be final and binding.

22.5 Time Limits - The time limits for the processing of grievances may be extended by written consent of both parties. Employees are advised that the burden of proof is on them to prove that a grievance was filed or appealed within the time limit specified above.

22.6 Department Heads - In the event that the employee desiring to file a grievance is a Department Head or otherwise reports directly to the Town Manager, the employee shall submit a written grievance directly to the Manager and the grievance process shall begin with Step Two.

23.0 WORK RULES AND DISCIPLINE:

Work Rules

23.1 Employee Compliance - Employees are required to abide by the terms of these rules and to comply with such regulations as the Town may adopt which are not inconsistent with these rules. Should there be any doubt as to the employee's obligations, the employee shall comply with the rules and then file a grievance if he feels he has been wronged. If the employee disobeys a

legitimate order or reasonable work rule instead of filing a grievance, discipline may be issued and upheld for insubordination based on the failure to follow the order or rule.

23.2 Operating a Motor Vehicle/Drivers License Status - An employee who needs a driver's license to operate vehicles as part of the job may be suspended without pay if said employee's right to operate a motor vehicle in the state of Maine is suspended or revoked, or limited in a way that would prevent him from performing the functions of the position. No seniority shall accrue during this suspension. Restoration to duty shall depend upon obtaining the right to operate a motor vehicle in the state of Maine. Termination could result in certain circumstances, including, for example, an indefinite license suspension.

Any changes to such an employee's driving record or license status must be reported to the employee's supervisor immediately. Where applicable, failure to maintain a valid driver's license may be sufficient cause for immediate termination.

Employees traveling on behalf of the Town must comply with all state, federal, and local traffic rules and regulations. The Town is not responsible for and will not reimburse an employee for any fine incurred by the employee for violating a traffic or criminal law while traveling on behalf of the Town.

Employees traveling on Town business are expected to wear seatbelts at all times.

Any accident, no matter how minor, which occurs while any employee is operating a vehicle on Town business, must be reported immediately to the Town Manager.

Employees who operate vehicles on Town business are strictly prohibited from operating such vehicles under the influence of alcohol or controlled substances, except for prescription medication authorized by a physician which does not cause unsafe performance.

Employees are not permitted to use Town vehicles for personal business/activity.

Discipline

23.3 Demotion, Dismissal or Suspension - The Town Manager and Department Heads shall have the right to take such disciplinary action where the facts and circumstances so warrant. Levels of discipline include, but are not limited to, written warnings, suspension, demotion, and dismissal. Counseling is not considered discipline.

When an employee's supervisor (or department head or Town Manager as the case may be) believes that there are grounds for discipline, the supervisor shall provide the employee with written notice of a disciplinary hearing. The notice shall include the time, date and place of hearing, the general nature of the offense, and the type of discipline contemplated. At the hearing, the supervisor shall inform the employee of the facts as understood and give the employee the opportunity to respond. The supervisor shall then decide whether disciplinary action is warranted, and if so, what disciplinary action is appropriate under the circumstances. A

supervisor or department head may issue discipline up to the level of suspension, and may recommend to the Town Manger that an employee be demoted or terminated from employment.

Notice of such action must be in writing and filed with the employee no later than the effective date of the action. Such notice shall specify the penalty and contain a statement of the reason or reasons therefore. The employee shall have the right to appeal as outlined in the grievance procedure.

23.4 Grounds for Discipline - The reason listed below are illustrations of behaviors, which may be grounds for discipline:

- A. Drinking or using illegal drugs on the job or arriving to work while under the influence of intoxicating beverages or drugs, or bringing same on job.
- B. Failure to follow reasonable orders of superiors.
- C. Being habitually late or tardy.
- D. Failure to perform the duties of the position properly within the employee's capability.
- E. Negligent or willful damage to Town property or private property while on the job.
- F. Conviction of theft or any other crime.
- G. Dishonesty, including the falsification of official reports or records.
- H. Use of abusive language toward a fellow employee or to the public or failure to treat the public with respect.
- I. Negligently endangering the safety of other employees.
- J. General conduct unbecoming a civil servant where such conduct might compromise the reputation, character and trustworthiness of the Town employee and / or government.
- K. Violation of the work rules (that are not in conflict with these rules).
- L. Acceptance of money or a gift by an employee when given under circumstances indicating the hope or expectation of receiving better treatment than that accorded to the public in general.
- M. Documented poor performance without sufficient improvement.

24.0 SEPARATION OF EMPLOYMENT:

24.1 Separation - Upon separation, the Town shall pay all wages owed as well as accrued vacation pay due to the employee on the next regular pay day.

24.2 Voluntary separation - In all cases of voluntary separation, the employee shall provide the Town with written notice of intent to terminate employment ten (10) working days prior to separation from employment in order to resign in good standing.

25.0 SALARY AND WAGES:

The Town of Bar Harbor desires that the Town employees be paid on a basis that is commensurate with salaries and wages for comparable work in the Town, in order to attract and retain well-qualified employees. Wage increases may be made from time to time upon the recommendation of the Department Head and the approval of the Town Manager. Salary increases for the Town Manager and Department Heads must be approved by the Town Council.

26.0 PROMOTION:

The Town of Bar Harbor desires that its employees be given maximum opportunity for advancement within the service. Present employees shall be given first consideration in filling a vacancy, but it is recognized that from time to time, for the good of the service, it will be necessary to fill a vacancy from outside. Such a decision shall be made only after careful review of the qualifications of all Town employees who apply for the position.

27.0 SAFETY:

The Town of Bar Harbor recognizes that promoting and ensuring the safety of its Employees in the workplace is both legally required and mutually beneficial. When an employee is injured, the Town loses the valuable services provided by the employee while the employee suffers from pain, disability, and loss of income. The Town believes that no job is so important or urgent that employees cannot take time to perform it safely. Through the collective efforts of Town employees at all levels of the organization, the Town seeks to provide a work environment free from recognized hazards, including any hazard that may be created through prohibited use of drugs and alcohol which impairs performance. The Town is committed to the goal of providing a safe place of employment and sound-operating practices designed to result in safe and efficient working conditions.

28.0 POLITICAL ACTIVITIES:

28.1 Political Prohibitions - All regular employees shall refrain from the following political activities:

- A. Using her employment for the purpose of interfering with or affecting the result of an election or nomination for a public office;
- B. Directly or indirectly coercing, commanding or advising another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes;
- C. Serving as an elected office while employed by the Town. This does not prohibit running for elected office.

28.2 Political Membership - The above prohibitions shall not be construed to prevent a regular employee from becoming or continuing to be a member of any political organization or expressing her views on political matters or from voting with complete freedom in any election.

29.0 TECHNOLOGY USE RULES

The Town technology resources include computers, printers, phones, cell phones and other peripherals, programs, data, local and wide area networks, and the Internet. The Town has issued Technology Use Rules (TUR), available at www.barharbormaine.gov/finance/TUR governing the use of these Town owned resources.

30.0 PERSONNEL FILES:

30.1 Confidentiality - Certain information contained in a personnel file is public under the Freedom of Access law. Insofar as permitted by law, all personnel records including home addresses, telephone numbers and pictures of employees shall be confidential and shall not be released to any person other than Town officials.

30.2 Inspection - Upon request, an employee shall have the right to inspect the official personnel record maintained on said employee. Inspection shall be during business hours and shall be conducted under supervision of the Town. An employee shall have the right to have added to the personnel file a written refutation of any material which he considers detrimental or in error.

30.3 Written Reprimands - No written reprimands which have not previously been the subject of a hearing shall be placed in the personnel file unless the employee is first given the opportunity to see a copy of the reprimand.

31.0 EXAMINATIONS:

Physical or other examinations required by a governmental body or the Town shall be promptly complied with by all employees, provided, however that the Town shall pay for all such examinations. The Town shall not pay for any time spent in the case of applicants for jobs and shall be responsible to employees only for the time spent at the place of the examination or examinations. The Town reserves the right to select its own physician. If either an employee or the Town requests a second opinion, the requesting party shall pay for the exam.

32.0 TRAINING:

Mandatory training will be provided at no cost to the employee, including wages paid for the time spent in travel and in class, but no other time. The Town shall pay all reasonable expenses for mileage, lodging and meals. The Town Manager may set a maximum for expenses to be paid daily.

33.0 DEFECTIVE EQUIPMENT:

33.1 Operation - The Town shall not require employees to use or operate any vehicle or equipment that is not, in the judgment of the Department Head, in safe operating condition or equipped with the safety appliances prescribed by law.

33.2 Reporting Defects - Employees shall immediately report all dangerous equipment defects to their supervisor. All other defects shall be reported no later than the end of the shift.

34.0 OVER TIME AND COMPENSATION TIME:

34.1 Over time - All hours actually worked by hourly employees over forty (40) hours in a regular work week shall be paid at a monetary rate of one and one-half (1 1/2) times the base hourly rate of pay.

34.2 Over time compensation - For the purposes of section 34.1, above, “hours actually worked” includes vacation time, hours compensated for by holiday pay, or hours compensated for by bereavement leave.

34.3 Compensatory Time - when over time is authorized by the Department Head, the employee shall accumulate compensatory time. An employee may accumulate compensatory time up to a maximum of eighty (80) hours at any one time. After the maximum amount of compensatory time has been reached, additional overtime shall be paid at the overtime rate.

The use of all compensatory time shall have prior approval of the department Head. Within the need to maintain effective Town operations, the Town will make available the opportunity to use the accumulated compensatory time in accordance with the Towns work load.

34.4 Call-back Pay and Standby Time - Regular employees who are eligible for overtime payments and who are called to work outside their normal shift shall receive a minimum of two (2) hours pay. This section applies only when call-back results in hours worked which are not annexed consecutively to one end or the other of the working day or working shift.

34.5 Records of Hours Worked

Accurately recording time worked is the responsibility of every hourly employee. Federal and state laws require the Town to keep an accurate record of time worked in order to calculate employee pay and benefits. Time worked is all the time actually spent on the job performing assigned duties. Hourly employees should accurately record the time they begin and end their work, as well as the beginning and ending time of each meal period. They should also record the beginning and ending time of any split shift or departure from work for personal reasons. Overtime work must always be approved before it is performed.

Altering, falsifying, tampering with time records, or recording time on another employee's time record may result in disciplinary action, up to and including termination of employment.

35.0 EMPLOYEE DRESS AND APPEARANCE:

As representatives of the Town, employees are expected to maintain a neat and professional appearance. The following types of clothing are prohibited: pants made of jean material of any kind; shorts (unless part of a suit or the employee works outside); tank or halter tops; strapless tops; cropped tops; clothing that does not adequately provide coverage or that shows undergarments; torn clothing; clothing with holes; flip flops; sweatsuits or similar attire; and leggings. This list is not exhaustive. If an employee has a question about whether a particular

type of clothing is permitted under this policy, it should be directed to his/her supervisor or Department Head. Employees of the Department of Public works are exempt from this section as union contracts require the Town provide uniforms. Non-union employees are exempt also at the discretion of the Public Works Director.

Professional appearance also means maintaining good hygiene and grooming while working. Facial hair is permitted as long as it is neat and clean. Earrings are acceptable as long as they are not a safety hazard; however, no more than two earrings may be worn in each ear while working. Rings through the nose, eyebrow, tongue, or other body parts visible to the public may not be worn while working. All tattoos must be small in size and not offensive or covered at all time while working. Examples of offensive tattoos could include, but not be limited to: profanity, scenes depicting nudity or that could reasonably be seen by others as sexual harassment, scenes that could reasonably be seen by others as racist or discriminatory against any protected classification, and scenes depicting violence or illegal activity. Employees are expected to be conservative in the wearing of makeup and scented products.

Employees who violate this policy in the opinion of their Department Head or the Town Manager may be asked to leave the workplace until they are in compliance. Repeated infractions of this policy may be cause for disciplinary action.

Under certain limited circumstances, an exception to this policy may be made for an employee with a bona fide health and/or religious need. To request such an exception, the employee must contact the Town Manager as soon as the need for the exception arises.

36.0 VIOLENCE IN THE WORKPLACE:

The safety and security of all employees is of primary importance. Threats, stalking, threatening and abusive behavior, or acts of violence against employees, visitors, customers, and/or Town facilities or property by anyone on Town property, on a Town-controlled site, or in connection with Town employment or business will not be tolerated (even those made in jest). Violations of this policy will lead to corrective action up to and including termination and/or referral to appropriate law enforcement agencies for arrest and prosecution. The Town reserves the right to take any necessary legal action to protect its employees. All employees are responsible for notifying their Department Head immediately of any threats that they witness or receive or that they are told another person witnessed or received. Even without a specific threat, all employees should report any behavior they have witnessed that they regard as potentially threatening or violent or that could endanger the health or safety of an employee when the behavior has been carried out on Town premises, on a Town-controlled site, or is connected to Town employment or business. Employees are responsible for making this report regardless of the relationship between the individual who initiated the threatening behavior and the person or persons being threatened.

37.0 NURSING MOTHERS IN THE WORKPLACE:

An employee may use either available paid break or meal time or unpaid time each day to express breast milk for her nursing child for up to three years following childbirth. The Town will provide an adequate location for this purpose that is clean and allows the employee to express breast milk in private. The Town will not discriminate against an employee who chooses to express breast milk in the workplace pursuant to this policy.

38.0 HUMAN RIGHTS:

Nothing contained in these Personnel Rules shall be construed contrary to the Maine Human Rights Act, 5 M.R.S.A. section 4451, et seq.

The Town of Bar Harbor hereby adopts the Employment Regulations of Maine Human Rights commission and directs they shall become a part hereof.

39.0 POLICY ON HARASSMENT:

It is the policy of the Town of Bar Harbor that all employees should be able to work in an environment free from all forms of harassment. Harassment, as defined by this policy is prohibited. This policy refers not only to supervisor- subordinate actions but also to actions between co-workers. Any complaints of harassment will be investigated and resolved promptly. There will be no intimidation, discrimination or retaliation against any employee who makes a report of harassment.

39.1 Sexual and Other Prohibited Harassment

A. The Town of Bar Harbor hereby adopts the definition of sexual harassment set forth in Section 3.06 (I) (1) of the Employment Regulation of the Maine Human Rights Commission. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:

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

B. Sexual harassment is an extremely serious matter and is prohibited in the work place by any person in any form, whether directed at a co-worker, supervisor, or any other employee.

C. Any employee who believes he or she has been the subject of sexual harassment should report the alleged act to the Department Head or Town Manager immediately. No employee will be retaliated against for reporting sexual or other illegal harassment.

D. Any supervisor or employee who is found, after appropriate investigation, to have engaged in sexual harassment will be subject to discipline, up to and including discharge

E. This policy also prohibits unlawful harassment on the basis of any other protected category, such as race, color, gender, sexual orientation, physical or mental disability, religion, age, ancestry or national origin.

39.2 Verbal Harassment - Derogatory or vulgar comments regarding a person's sex, religion, age, ethnic origins, physical appearance, sexual orientation or the distribution of written pornographic material having such an effect, are prohibited. Any employee who believes he or she has been the subject of such harassment should report the alleged conduct to the Department Head or Town Manager.

40.0 DRUG FREE WORK PLACE:

To ensure the safety and well being of the employees and public, it is the Town's policy to maintain a drug free workplace and to prohibit employees from working under the influence of any illegal drug or controlled substance. The Town further prohibits the unlawful manufacture, distribution, dispensation and possession, as well as the use, of illegal drugs or controlled substances on any property or place owned or under the control of the Town of Bar Harbor or during working hours. Violation of this policy is cause for disciplinary action, up to and including discharge.

41.0 USE OF TOBACCO PRODUCTS:

In keeping with the Town's intent to provide a safe and healthy work environment, use of tobacco products is prohibited within all Town buildings and vehicles. Exterior designated smoking areas, as appropriate, shall be determined and designated by the Town Manager.

42.0 REVISION TO PERSONNEL RULES:

The Town Council may change these rules unilaterally at any time.

43.0 SEPARABILITY AND SAVINGS:

If any provision of these rules shall be determined to be contrary to law, the validity of the remaining provisions shall not be affected.

44.0 REPEAL AND EFFECTIVE DATE:

These rules shall become effective as of the date adopted by the Town Council and further, the adoption of these rules shall be deemed to repeal and replace all correspondingly numbered Personnel Rules adopted by the Town Council previously.