

# Town of Sterling Employee Handbook & Town Policies



PLEASE READ THIS EMPLOYEE HANDBOOK AND TOWN POLICIES AND SIGN THE 'ACKNOWLEDGEMENT OF RECEIPT' AND RETURN TO THE TREASURER/COLLECTOR'S OFFICE.

*Please return this booklet to the Treasurer/Collector's office if you do not want to keep it. Your department will have a copy of it for reference if you do return this to the Treasurer/Collector's office.*

The policies, procedures and benefits contained in this Employee Handbook supersede all previous policies, procedures and benefits of the Town of Sterling, except as provided by collective bargaining agreement, or individual contract. Collective Bargaining unit employees and employees covered under an individual contract should consult the terms of their applicable agreement.

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## ***SECTION A: INTRODUCTION & APPLICABILITY***

Welcome to the Town of Sterling ("The Town"). It is our hope that we will strive to make the workplace a mutually beneficial and pleasant one. The Town and its employees take great pride in our community and are dedicated to providing the highest level of services to its residents and visitors.

As you begin your employment with the Town, we invite you to read and become familiar with the contents of this Employee Handbook. We hope that you will find it full of helpful and valuable information about the policies, benefits, procedures and opportunities available to guide and assist you in performing to the best of your abilities, developing, and realizing your potential as one of our valued employees. Please read it carefully, sign, and return 'Acknowledgement of Receipt' to the Treasurer/Collector's office. Your department will have a copy of this Handbook so if you do not want to keep this please also return this to the Treasurer/Collector's office.

### ***Personnel Administration***

The Town Treasurer handles personnel records and related personnel administration functions at the Town of Sterling. Questions regarding insurance, wages, and benefits can be directed to the Town Treasurer. Questions regarding interpretation of policies can be directed to the Town Administrator or designee, or the Personnel Board.

### ***Applicability***

This Employee Handbook shall apply to all Town of Sterling departments and to all positions of all appointed employees in the service of the Town, other than the Light Department. Full-time or part-time, temporary, seasonal, special, intermittent or any other type of employment, unless otherwise covered by separate agreements between the Town or any individual employee or developed through collective bargaining.

The Town adheres to the policy of employment-at-will, which permits the Town or the employee to terminate the employment relationship at any time, pursuant to the terms of the Personnel Policy bylaw. Nothing contained in this Handbook should be construed to create an employment agreement or promise of employment between the employee and the Town.

The Town agrees that, in all personnel matters, it will continue its policy of not discriminating because of race, ethnicity, color, religious creed, national origin, or ancestry, gender, sexual orientation, genetic information, veteran status, age, disability or any other protected status defined by law. The Town of Sterling has not adopted any provision of Massachusetts General Law, Chapter 31, regarding Civil Service.

## ***SECTION B: RECRUITMENT AND SELECTION***

### **Section B-1: Recruitment**

The Town of Sterling is an equal opportunity/affirmative action employer. The Town is committed to equal opportunity for all persons regardless of race, color, religion, national origin, ancestry, sex, sexual orientation, age, genetic information, mental or physical disability or any other lawfully protected categories. All persons, subject to any statutory requirements or limitations on the position, shall be eligible for employment with the Town.

#### **(a) Internal Posting**

Internal posting of a vacancy shall be made to ensure that qualified current employees have the opportunity to apply. Appointing authorities and the Town Administrator or designee, through the Town Department, shall ensure that notices of vacant positions are posted on the Town Bulletin Board for ten (10) calendar days. External advertisement of the position may be done concurrently.

#### **(b) Advertisement of Job Vacancy**

A variety of external recruitment sources shall be used when appropriate.

#### **(c) Job Application**

Applicants for employment with the Town may be required to complete a Town Job Application Form. All employees are required to furnish their respective Department Head with any change in personal information including change in address, marital status or employee benefits.

#### **(d) Examinations**

The respective appointing authority may require a job-related examination as one part of the selection process, subject to the approval of the Town Administrator or designee, and appointing authority. Examinations may be written, oral, practical, physical, or any combination thereof and shall be relevant to the requirements of the position.

For positions that require pre-employment physicals prior to the first day of employment, an employee will be required to have a physical examination by a Town-designated physician, for which the Town will pay. All public safety positions, all positions involving the operation of a motor vehicle or power equipment, and all positions requiring a worker to lift more than twenty-five pounds shall require a pre-employment physical.

The examining physician must return a completed "Physical Examination Form" to the Department Head before work begins, indicating the employee's physical ability to perform the essential functions of his/her job for employment with the Town. The Town

reserves the right to withdraw a conditional offer of employment made to an applicant if they fail the pre-employment physical.

**(e) Proof of Citizenship/Employment Eligibility**

The United States Immigration and Reform Act requires all employers to verify employee citizenship and employment eligibility. The employee is required by law to complete the Employment Eligibility Verification Form (I-9) at the Treasurer/Collector's office before receiving the first paycheck. Original documents that establish both identity and employment eligibility must also be provided, for example a U.S. Passport or both a driver's license and a certified birth certificate. For a list of other acceptable documents, employees should contact the Treasurer/Collector's office.

**(f) Work Permits**

State and Federal laws require that any employee under the age of 18 who has not graduated from high school must have a work permit. The Town will not employ anyone under the age of 16.

**(g) Background and Reference Checks**

To ensure that all individuals employed by the Town are well qualified and to ensure that the Town maintains a safe and productive work environment, the Town will conduct pre-employment background check on all applicants who accept a conditional offer of employment. Background checks may include verification of any information on the applicant's resume or application form.

All offers of employment are conditional on receipt of a background check report that is acceptable to the Town. All background checks are conducted in conformity with the Federal Fair Credit Reporting Act, the Americans with Disabilities Act, and state and federal privacy and anti-discrimination laws. Reports will be kept confidential and are only viewed by individuals involved in the hiring process.

If information obtained in a background check lead the Town to deny employment, a copy of the report will be provided to the applicant, and the applicant will have the opportunity to dispute the report's accuracy. Additional checks such as driving records or credit reports may be made on applicants for particular job categories at the Town's discretion.

The Town also reserves the right to conduct a background check of current employees to determine eligibility for promotion or reassignment in the same manner as described above.



**(h) CORI**

Town employees who work with elders or youth will be required to submit to a CORI check. The Town may also require CORI checks for other reasons consistent with Massachusetts Law. If your position requires a CORI check, you must complete a CORI release form and submit it to your appointing authority. A copy of the Town's CORI Policy is available on the Town's web site.

**(i) Failure to Report**

An applicant, who accepts an appointment and fails to report to work on the date set by the appointing authority, shall be deemed to have declined the appointment and the offer of employment shall be withdrawn.

**(j) Union Membership**

Where employees are represented by a Union, a representative of an employee's bargaining unit will contact new employees during the initial months of employment with the town. An employee can obtain copies of his/her respective collective bargaining contract from the union.

**(k) Individuals with Disabilities**

The Town is committed to realizing the full potential of all its employees regardless of their physical or mental disabilities. The Americans with Disabilities Act (ADA) requires employers to make reasonable accommodations to allow disabled employees to perform the essential functions of their jobs. Accommodation is an interactive process where an employee works with his/her employer to find reasonable accommodations. If an employee requires an accommodation, he/she should contact the Department Head or Town Administrator or designee to discuss accommodation options. The Town will make the final determination of what accommodation is reasonable.

**Section B-2: Orientation**

The purpose of the orientation is to ensure that new and promoted employees become aware, understand their duties, responsibilities, and required work standards and to help employees achieve an effective level of performance. Following the initial orientation, it is the ongoing responsibility of Department Heads to assist employees in understanding these duties, responsibilities and standards of performance. This is applicable to all employees covered by this handbook.

In order for an employee to receive their first paycheck, employees must complete various employment forms such as W-4 (tax withholding) and Employment Verification Form (I-9)

which are on file with the Treasurer/Collector's office. A detailed list of required employment forms is available in the Treasurer/Collector's office.

### **Section B-3: Probationary Period**

Unless otherwise provided by law, all newly appointed, transferred, and promoted employees shall be required to successfully complete a Probationary period. The Probationary period shall begin immediately upon the employee's starting or promotion date and shall continue for six (6) consecutive months of employment. This Probationary period may be extended based on the recommendation of the Department Head and the appointing authority and shall be approved in writing by the Town Administrator or designee.

### **Section B-4: Job Descriptions and Interpretations**

The Personnel Board and Town Administrator or designee shall maintain written job descriptions of the jobs or positions in the Salary Administration Plan, which descriptions shall have written definitions including statements describing the kind of work, the distinguishing features of the work and such illustrative examples of duties as may be deemed appropriate.

- A. The description of any position shall be construed solely as a means of identification, not as a limitation to what the duties and responsibilities of any position shall be, or as modifying or in any way limiting the power of the appointing authority. As otherwise existing, to assign duties, modify, direct or control the work of any employee under the jurisdiction of such authority.
- B. All current job descriptions should be reviewed every three years, or when the position becomes open. All job descriptions for newly created positions should be reviewed at the one-year anniversary date of the position(s) being filled, and may be modified as necessary to meet the Town's needs.

## ***SECTION C: CLASSIFICATIONS & SCHEDULING***

### **Section C-1: Employment Classifications**

At the time of hire, employees are classified as a Group A, Group B, or Group C employee and informed if they qualify for overtime pay. Unless otherwise specified, the benefits described in this Employee Handbook apply only to Group A or Group B employees. All other policies described in this Employee Handbook and communicated by the Town of Sterling, apply to Group A, Group B, and Group C employees. If you are unsure where your position falls in the Salary Administration Plan, please ask your supervisor, or the Treasurer's office. For employees covered by an individual contract, items not addressed in the contract may default to this Employee Handbook.

#### **Subsection C-1.1: Employee Groups**

1. Group A Employees: Exempt employees who are usually scheduled to work a minimum of forty (40) hours per workweek, fifty-two weeks per year. Group A employees are eligible for all employee benefits, but are not eligible for overtime pay. Group A employees are also eligible for all employee benefits provided to Town of Sterling employees as set forth in Section E of the Employee Handbook.
2. Group B Employees: Non-exempt employees who are regularly scheduled to work between twenty (20) and forty (40) hours per workweek, fifty two (52) weeks per year. Group B employees are eligible for overtime pay for all actual hours worked in excess of forty (40) in a workweek. For the purposes of this section, holiday time, sick time, vacation time and personal time used in a workweek shall be considered time worked. Group B employees are also eligible for all employee benefits provided to Town of Sterling employees as set forth in Section E of the Employee Handbook.
3. Group C Employees: Non-exempt employees who are regularly scheduled to work less than twenty (20) hours per work week, fifty two (52) weeks per year. These employees are eligible for overtime pay for all actual hours over forty (40) worked in a workweek, but are not eligible for the employee benefits provided to the Town of Sterling employees as set forth in Section E of the Employee Handbook unless otherwise noted.
4. Intermittent part-time: An employee hired for irregular or occasional employment for an hourly rate or a fee. This includes employees hired to work for a specific period, not to exceed six (6) months. These employees are also eligible for overtime, for all hours worked over 40 in a workweek, but not employee benefits as set forth in Section E of the Employee Handbook, unless otherwise noted.

5. Salaried but not working a regular schedule: Exempt employees who may or may not be eligible for employee benefits based on their work schedule.

A Payroll Change Authorization Form must be approved by the Department Head and Town Administrator or designee for any employee to change from one group to another. The threshold for requesting to move to a benefit eligible from a non-benefit eligible position is that the employee is scheduled to work 20 hours or more per week for more than 40 consecutive weeks in a fiscal year, barring any coverage for FMLA, MMLA, USERRA (Go to Pg. 29 for further explanation of USERRA), or any Town approved leave of absence.

## **Section C-2 Scheduled Work Hours**

### **Subsection C-2.1: Core Hours**

The normal workweek begins at 12:01 a.m. on Monday and ends at 12 midnight on Sunday. The normal workweek consists of forty (40) hours during a consecutive five-day period. The normal work shift varies depending upon department. The Town Administrator or designee will set basic uniform office hours ("core hours") for all offices with full-time employees that serve the public with the exception of Departments that run on a 24/7/365 basis or whose hours of operation are longer or shorter than the hours of Town Hall. These core hours are 7:30am - 5:00pm Monday-Thursday and 7:30am - 11:30am on Friday. Part-time employees will work a schedule, which will be created by the Department Head, with final approval given by the Town Administrator or designee.

Work schedules may be changed periodically at the discretion of the Town with five (5) days written notice. If an employee is required to work six (6) consecutive hours, he/she is entitled to a ½ hour of unpaid rest. The Department Head shall advise the employee of the time to take the rest period.

If an employee is experiencing exceptional circumstances and wishes to work outside of the core hours, the employee must submit a request electronically to their Department Head with the beginning and end date for the request, the new start and end times requested and the reason(s) for the change. The temporary change must be approved in writing, by the Department Head and Town Administrator or designee prior to the schedule change.

Specific job descriptions for certain positions may establish different working hours than the core hours. If the Department Head needs to change the schedule, he or she will try to give the employees as much notice as possible of the changes.

### **Subsection C-2.2: Absence**

Excessive absences may result in temporary or permanent layoff if an employee is unable to attend work as scheduled or fulfill job requirements. If a physician's documentation is required

before returning to work, employees will be notified. Absence for any period of time, during which no notification is given to a Department Head or permission is obtained, is considered job abandonment or voluntary resignation and an employee may be subject to disciplinary action up to and including termination.

The Treasurer/Collector's office is responsible for maintaining and reporting official employee records of attendance. The Town's or designee shall review Departmental attendance records periodically to ensure consistent administration of attendance standards of all employees. The Treasurer/Collector or designee may request verification of payroll data.

### **Subsection C-2.3: Meal Breaks**

In accordance with M.G.L. c.149, s.100 and s.101, all non-exempt employees will receive a 30-minute meal break if they are scheduled to work more than six hours in a calendar day. An employee must be free to leave the workplace during the break. An employee can voluntarily give up the meal break, but must be paid for all hours worked. Compensation for the 30-minute meal break must be paid if the employee has voluntarily agreed to waive his or her meal break by (1) working through his or her meal break, or (2) remaining on the premises at the request of the employer during the meal break. If the employee is given permission to work through their meal period due to a scheduling necessity for the employee or at the request of the manager, there must be written notice from the manager and the employee submitted via email to the Treasurer's office and Town Administrator or designee.

## ***SECTION D: COMPENSATION AND PERFORMANCE***

### **Section D-1: Time Sheets and Recording of Time**

Accurately reporting time worked is the responsibility of every employee. The Town of Sterling must keep an accurate record of time worked in order to calculate employee pay and benefits. The Town retains the right to establish the mode by which time is recorded.

Non-exempt employees must accurately record the time they begin and end their workday, as well as the beginning and ending time of each meal period. They must also record the beginning and ending time of any split shift or departure from work for personal reasons. Exempt employees must accurately record the total hours worked for each workday.

Employees must notify the Department Head whenever they leave the work location for any reason other than authorized Town business. A non-exempt employee may not work before his/her scheduled starting time or after scheduled quitting time unless approved by a Department Head, Town Administrator or designee in writing.

It is the employee's responsibility to sign his or her time record to certify the accuracy of all time recorded. The timekeeper for the department will review and then approve the time record before submitting it for payroll processing. In the event of an error in reporting time, immediately report the problem to the department's timekeeper, who will then report the error to payroll.

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.

### **Section D-2: Compensation**

All employees shall be compensated in accordance with the Salary Administration Plan that has been established to provide a uniform system for classifying all positions and establishing proper relationships between positions based upon levels of responsibilities and minimum qualifications required to perform the job, thereby ensuring equitable compensation for each classification. No employee's salary shall be changed without the written consent of the Department Head, Town Administrator or designee, and the Personnel Board.

#### **Subsection D-2.1: Expense Reimbursement**

Employees must obtain the prior approval of their Department Head or designee for all work-related expenses. No expense will be reimbursed without an original receipt. Copies of checks do not constitute a payment receipt. Routine travel costs to and from work are not reimbursable. Mileage expenses will be reimbursed to any employee who uses a personal vehicle for Town

business, provided that he/she receives authorization in advance from the appropriate Department Head or designee. This mileage reimbursement will be at the standard rate established by the IRS.

Department Heads attending professional conferences, conventions or short schools, or to visit other communities in the interest of the Town, are entitled to reasonable reimbursement for actual expenses for travel and up to three meals per day. Alcoholic beverages and tips are not eligible for reimbursement.

Such employees shall submit an itemized list of expenses for such travel together with paid receipts, which shall be the basis for all petitions or requests for reimbursement of expenses incurred. Reimbursements shall be issued to the applicant when approved by the Town Accountant and Appointing Authority.

#### **Subsection D-2.2: Payroll**

Employees must notify the Treasurer of any changes in dependent status so that forms for tax deductions and insurance can be updated. It is the employee's responsibility to immediately notify the Department Head and the Treasurer/Collector's office if an employee loses a paycheck. Once an employee has notified the Treasurer/Collector's office, a stop payment will be put on the check as soon as possible. Employees are required to reimburse the Town for any bank charges incurred for the stop payment.

Employees are paid on a regular bi-weekly basis for time worked since the preceding pay period. State and Federal laws require the Town to make deductions from employees' pay for Federal and State income tax. Such payments are sent by the Town to the appropriate governmental agencies. In addition, any authorized voluntary deductions (for example, health insurance premiums or optional retirement plan contributions) will be automatically withheld from an employee's paycheck once the employee has notified the Town in writing.

#### **Subsection D-2.3: Benefits**

##### **1. Consolidated Omnibus Budget Reconciliation Act (COBRA)**

The Consolidated Omnibus Budget Reconciliation Act (COBRA) requires employer-sponsored group medical and dental plans to allow covered employees and their dependents to elect to have their current medical coverage continued, at the employee and dependent's expense, at group rates for up to thirty-six (36) months following a qualifying loss of coverage.

##### **2. Death Benefit**

Upon the death of a Town employee who is on the Town's payroll, his/her estate or designated beneficiary is eligible to receive his/her accumulated unused vacation leave benefits, retirement contributions and/or life insurance as applicable.

### 3. Educational Assistance

With prior approval of the Town Administrator or designee, or Department Head or Appointing Authority and subject to the availability of funds, employees will be reimbursed for the cost of taking job-related education courses from accredited colleges or universities, secretarial and trade schools, and/or from organizations providing specialized training related to an employee's responsibilities. This practice also applies to the cost of training required for the maintenance of certifications required by the Commonwealth of Massachusetts. The Town will pay the full cost of training related to required certification of licenses. To be eligible, employees must have a minimum of one (1) year continuous service with the Town.

To obtain tuition reimbursement, an employee must complete a Tuition Reimbursement Request Form (to be developed) and submit it to the Town Administrator or designee, Appointing Authority or their Department Head. Employees must be actively employed by the Town at the time of course completion. Employees must receive a grade of "C" or higher in the class, or in the case of a pass/fail, must receive a "Pass".

Within a reasonable period of time of completion of the course, employees must submit to the Town an official transcript from the school that includes the grade received, and the receipt or other official proof of payment. Failure to timely submit the appropriate receipts and transcripts may result in denial of reimbursement. It is the responsibility of the Department Head to maintain and update employee-training records.

Payback of tuition reimbursement will be required if an employee leaves the employment within one year of completing the course. New employees shall execute a reimbursement agreement as a condition of their initial employment with the Town.

### 4. Health Insurance Portability and Accountability Act (HIPAA)

A. The Town will comply with the Privacy Regulations of the Federal Health Insurance Portability and Accountability Act (HIPAA) of 1996. The Town shall limit the use of and access to Protected Health Information, which is held by the Town or its lawful agents. Protected Health Information is any written, oral or electronic form of information relating to a person's past, present or future health condition, delivery or payment of health services that identifies an individual or where there is a reasonable basis to believe the information could be used to identify an individual. Administrative, technical and physical safeguards established to limit use and access to protected health information are established as part of daily operating procedures and will be maintained by all responsible staff and representatives of lawful agents and business associates of the Town.



B. To assure compliance, the Board of Selectmen shall designate the Town Administrator as the Privacy Contact who shall have the responsibility to ensure that the:

1. Town Administrator or designee is kept informed of all changes, updates, requirements, responsibilities, claims, etc. concerning the HIPAA privacy regulations;
2. Documentation of the Town's efforts to comply with HIPAA privacy regulations is maintained;
3. Town's group health plan subscribers are sent privacy notices and new enrollees receive said notices;
4. Any protected health information disclosures are tracked;
5. Authorizations for disclosure and use of protected health information are properly processed;
6. Complaints from participants are resolved about possible privacy violations;
7. Appropriate Town liaisons are maintained with the group health insurance program third party administrator, relevant business associates, and health insurance carriers, communicating the Town's commitment and securing the commitment of these entities to the privacy and security of protected health information;
8. All required authorizations, agreements, etc. relative to the protected health information of group health insurance program participants are maintained; and
9. Town's compliance with HIPAA privacy regulations are monitored on a regular basis.

C. Only those Town officials with a legitimate business purpose and bona fide need to know may be given access to protected health information in order to legally perform the position duties and administer the program.

D. As an employer, the Town may use protected health information in its possession without specific authorization from the employee for treatment, payment, quality assessment, medical review and auditing, studies to improve the group's health care quality or reduce health care costs, compiling civil/criminal proceedings, and any other use required by law for public health, communicable disease, abuse or neglect, or food and drug administration purposes.

E. Information which is normally maintained in the employment record which is not classified as protected health information includes all forms, responses, inquiries and data relative to the Family Medical Leave Act (FMLA), drug screenings, fitness for duty, workers compensation, disability, life insurance, the Occupational Safety and Health Act (OSHA) and sick leave.

F. Protected employee health information may be released for other purposes only by the employee's authorization. The use and/or disclosure of protected health information is limited to the specific information for the specific purpose, to and from the specific individual and/or entity for a specific time period as delineated by the employee's authorization. Group health insurance program participants are allowed to review their protected health information that is held by the Town and to correct errors.

G. The Town separates protected health information from the employment record and retains such information in a locked file accessible only to authorized personnel. All entities which could receive protected health information (third party administrator, ambulance billing company, fully insured plan providers, legal counsel, actuaries and consultants) must enter into a business associate agreement with the Town committing to compliance with the HIPAA Privacy Regulations and providing satisfactory assurances that the business associate will appropriately safeguard the protected health information.

H. Participants who believe they have been aggrieved by the use or disclosure of protected health information may file a written grievance with the Privacy Contact within sixty (60) calendar days of the use or disclosure of the protected health information or within fifteen (15) calendar days of their knowledge of said use or disclosure. The grievance must delineate the specifics of the complaint, including but not limited to:

1. What unauthorized protected health information was released;
2. Who received the protected health information and/or is knowledgeable of the protected health information;
3. When was the protected health information released and/or when did the complainant become aware of the unauthorized knowledge of the protected health information; and
4. What was the result of the release of the unauthorized protected health Information?

I. The Privacy Contact will meet with the complainant as soon as possible after the receipt of the grievance. During this meeting, the Privacy Contact will discuss the issue brought forward with the complainant. The Privacy Contact will investigate the allegations of the complaint with the full support and assistance of Town Management and, if necessary, legal counsel. The Privacy Contact will provide a written report of his/her findings and recommended action, if warranted, to the Town Administrator or designee and the complainant within thirty (30) calendar days from the date of the meeting with the complainant. If for some reason the Privacy Contact is unable to conduct this meeting and/or investigation the Town Administrator or designee shall appoint an alternate

Senior manager to perform these duties

J. Complainants may also contact the Federal Department of Health and Human Services for assistance.

K. The Town will comply with the Privacy Regulations established by the Federal Government and requires its employees to observe and comply with this practice and the use of the proper procedures and practice documents. Employees that have breached protected health insurance information security will be subject to disciplinary action, up to and including termination.

L. Insurance Plans

The Town makes available to all regular full or regular part-time employees group health, life, accidental death, long-term disability, sickness, group hospitalization and dental insurance programs. Family coverage is also available. A list of current insurance carriers is available in the Treasurer/Collector's office. The level of coverage and respective premium costs are subject to possible change by the Town. The Town will provide proper notice in advance to employees of any proposed changes to an insurance plan(s) in accordance with statutory notification requirements.

**For information regarding employee insurance plans and rates, employees should contact the Treasurer/Collector's office.**

**Section D-3: Overtime and Fair Labor Standards Act**

It is the practice of the Town that all work be accomplished within the normal workday. On occasion, the Town may determine that overtime is necessary to complete the assigned work beyond the normal workday. Each position authorized by the Town shall be designated as exempt or non-exempt from the payment of overtime in accordance with the provisions of the Fair Labor Standards Act (FLSA).

Exempt positions in accordance with the FLSA are not eligible for overtime compensation. Employees in these positions are expected to work the hours necessary to complete their respective duties.

Non-exempt positions shall be paid overtime for work in excess of forty (40) hours in a workweek

The employee's Department Head or Appointing Authority must authorize all overtime work in advance of said employee working beyond the normal workweek. A non-exempt employee shall receive a rate of pay for any hours, or portions thereof that are worked as authorized by the Town beyond 40 hours per work week that is equal to 1½ times his/her regular rate of pay.

For purpose of calculating overtime, holiday pay, sick leave, personal leave and vacation leave shall be considered as hours worked. In accordance with the FLSA, the Town has adopted a 7-k exemption by establishing a 28-day work period for police and fire personnel. No employee will receive compensatory time in lieu of the payment of overtime compensation. Sufficient funds must be available in the budget before overtime work is assigned.

**Section D-4: Direct Deposit**

The Town offers its employees the option of Direct Deposit of his/her paycheck(s) to the bank of the employee's choice. This benefit offers convenience, and depending on the bank, a possible savings on monthly service fees. To sign up for direct deposit, employees should contact the Treasurer/Collector's office.

**Section D-5: Retirement System**

As a condition of employment, employees who are regularly scheduled to work at least 1040 hours or more in a calendar year are required to join the Worcester Regional Retirement System (WRRS). Employees who are required to work less than 20 hours per week are required to contribute in the Smart Plan, which is an alternative to Social Security as permitted by the federal Omnibus Budget Reconciliation Act of 1990 (OBRA).

The Treasurer/Collector or designee will provide assistance and direction to an employee eligible for retirement. Retirement applications must be made by an employee in accordance with the rules and regulations of the WRRS.

**Section D-6: Performance Evaluations and Salary Increases**

All Group A and Group B employees, and non-seasonal Group C employees are to be evaluated and rated annually by their Department Head or Appointing Authority.

- A. Employees may respond in writing to the evaluation and/or requirements for improvement. Responses will be added to the employee's evaluation. The evaluation shall be forwarded to the Treasurer for placement in the employee's personnel file.
- B. Performance evaluations are used when deciding if a salary increase is warranted but are not the sole basis for determining salary increases.
- C. Changes in salary will normally be implemented at the beginning of a new fiscal year. Changes in salary at other times of the year are contingent on available appropriations.
- D. Some positions may not be eligible for salary increases.

## **Section D-7: Job Credentials**

Employees required by law, regulation, or approved job description, to maintain registration, license, or certification, are responsible for acquiring and maintaining such documentation, unless collective bargaining agreements provide otherwise.

An employee, who allows a required license specified in the applicable job description to expire, lapse, or a required license is otherwise suspended, or revoked by the licensing authority, will be placed on an unpaid leave of absence until the required license is obtained. Failure to pursue reinstatement in a timely manner will be considered abandonment of the position.

## **Section D-8: Transfers, Promotions and Demotions**

### **Subsection D-8.1: Transfers**

Transfer of an employee from one position to another without significant change in responsibility may be affected if the employee meets the qualification requirements for the particular period with the written approval of the Department Head and Town Administrator or designee.

### **Subsection D-8.2: Promotions**

- (a) Unless otherwise provided by law, all promotions shall be subject to a Probationary period of six (6) months. If, during this Probationary period, the Town Administrator or designee or an appointing authority in consultation with a Department Head determines that the job is not being satisfactorily performed, every effort will be made to return the employee to his or her previous or a comparable position. Should there be no vacancy; the employee will be terminated.
- (b) When an employee is promoted to a higher-rated job, he/she shall enter it at the minimum of the job rate range or at his/her own rate, whichever is higher.

### **Subsection D-8.3: Demotion**

At the discretion of the Appointing Authority, and only after a hearing, an employee may be demoted to a position in a lower classification level. An employee may be demoted to a position of lower grade for which the employee is qualified for any of the following reasons:

- (a) An employee would otherwise be laid off as a result of elimination of the position; the employee's position is reclassified to a higher grade for which the employee is not qualified; lack of work; disciplinary action; lack of funds; or because the return to work from an unauthorized leave of absence to such a position would cause the Town substantial and grievous injury in accordance with the rules of leave set forth in these guidelines.

- (b) An employee voluntarily requests the demotion; An employee may request or accept a voluntary demotion when assignment to less difficult role would be to their advantage and in the best interest of the Town.
- (c) If an employee is transferred to a lower-rated job, he/she shall enter it at his/her own rate or at the maximum rate for the job, whichever is the lower, following Town Administrator or designee approval.
- (d) All demotions must receive the prior approval of the appropriate appointing authority. The employee shall be notified in writing of the demotion and the reason for the action.

#### **Subsection D-8.4: Personnel Change Form**

No change of status of an employee's employment with the Town will be made without completion of an Employee Personnel Change Notice that is provided to the Treasurer/Collector's office. A copy of this form is available in the Treasurer/Collector's office.

#### **Section D-9: Resignation**

Unless stated by contract, all employees of the Town of Sterling are employees at will and are not required to give a notice regarding resignation. However, to resign in good standing, an employee must provide his/her Department Head at least two (2) weeks' notice in writing of the intent to resign from employment with the Town. To resign in good standing a Department Head is required to provide the Town Administrator, designee, or Appointing Authority with advance notice in writing at least thirty (30) days.

##### **Subsection D-9.1: Exit Interview**

The Town Administrator or designee, Appointing Authority, or designee shall conduct an exit interview with each employee who is leaving the employment of the Town. Exit interviews conducted by the Town Administrator or designee do not preclude such interviews by Department Heads. A copy of the Exit Interview form is available in the Office of the Town Administrator or designee.

##### **Subsection D-9.2: Post-Employment Benefits**

Each employee who is terminating employment shall meet with the Treasurer/Collector or designee to receive an explanation of benefits.

### **Subsection D-9.3: TownProperty**

Before receiving his/her last paycheck, an employee must surrender any Town property or materials assigned to him/her and must complete any separate actions as prescribed by the Department Head, Appointing Authority, or Town Administrator or designee.

### **Subsection D-9.4: Reduction in Force (RIF)**

When it becomes necessary to reduce the workforce, due to lack of work or lack of funds, the Town has the sole authority to determine which employees will be laid off based on the best interests of the Town. Employees whose employment is so terminated will be notified in writing. Employees whose employment is terminated in accordance with this section will be considered for re-employment in a manner determined to be in the best interest of the Town, providing they be physically and mentally qualified to perform all of the duties of the previous position.

## **Section D-10: Medical and Life Insurance for Retirees and surviving spouses of Retirees**

Retirees of the Town of Sterling (Town) shall be eligible to enroll in the Town's Retiree Group Health, Dental and Life insurance plans, subject to meeting the eligibility criteria described below. In accordance with the relevant provisions of Massachusetts General Laws (MGL) Chapter 32B, the Town will contribute seventy five (75%) toward the cost of retiree health insurance premiums, as long as the retiree notifies the Town in writing of his or her decision to enroll in a plan for retirees at least sixty (60) days prior to retirement from the Town and providing that he or she meets the following eligibility qualifications:

1. The benefited employee (Group A or B employee as stated in the Employee Handbook) must be retiring with at least 10 years of vested service with Worcester Regional Retirement System.
2. The employee is enrolled in the individual or family health insurance program offered by the Town prior to retirement and must be continuous into retirement.
3. The individual is eligible for retirement benefits through the Worcester Regional Retirement System and is in fact or will receive retirement benefits.
4. A retired employee, who is not enrolled as an employee in the Town's group health insurance program at the time he or she leaves employment with the Town, will not be eligible to enroll in the Town's group insurance plan as a retiree.
5. The Town will pay 75% of the cost of the retiree's health insurance premiums for individual or family plan that includes the retiree's spouse. The retiree must remain up to date on their 25% share of their payments.
6. An eligible retiree's participation in the Town's group health insurance must be continuous. A retiree who withdraws from coverage, for any reason, is prohibited from re-enrolling as a retiree subscriber at any point in the future.

7. In accordance with M.G.L. c. 32B, §18A, retirees, their spouses and dependents shall enroll for Medicare health benefits as soon as they are eligible.
8. When a retiree and/or the retiree's spouse enrolls in Medicare health benefits the Town, to the extent permitted by G.L. c. 32B, §18A, reserves the right to move either the retiree or the retiree's spouse onto a supplemental plan rather than continue a multiple member plan. The Town will continue to cover 75% of the plans.
9. If a retiree who is enrolled in a group health insurance plan becomes divorced, the former spouse shall remain eligible for the Town's group health plan unless stated otherwise in the judgment of divorce. Such eligibility of the former spouse shall continue through the retiree's participation in the plan or until the remarriage of either the retiree or the spouse. Should the retiree remarry following the divorce, the former spouse shall have the right, if so provided in said judgment, to continue participation in the group plan, by means of the addition of a rider to the family plan. The former spouse shall be responsible for the full cost of the additionally premium resulting from the rider.
10. If the Retiree retires on or after July 1, 2019, the payment of the retiree's portion of group health and life insurance will automatically be deducted from the retiree's retirement pay each month and forwarded to the Town of Sterling directly from the Worcester Regional Retirement System.

#### **RETIREE SURVIVING SPOUSE HEALTH INSURANCE POLICY**

- 1) Upon the death of a retired employee, the surviving spouse may continue their policy under the Town's group health insurance, until the remarriage or death of the surviving spouse. The surviving spouse is responsible to submit an application for insurance coverage with the Treasurer. The surviving spouse and all eligible dependents will continue to receive 75% coverage of their premium.
- 2) Participation in the Towns' group health insurance may continue as long as the surviving spouse meets all the plan eligibility rules and unless/until the surviving spouse remarries. Eligibility will cease upon the surviving spouse's remarriage.
- 3) If a surviving spouse chooses to voluntarily cancel health insurance with the Town, they will not be able to re-enter the plan in the future.



## ***SECTION E: EMPLOYEE BENEFITS***

### **Section E-1: Benefit Eligibility**

If you are a Group A or Group B employee, you will be able to enjoy many of the benefits described in this Employee Handbook as soon as you meet the eligibility requirements for each particular benefit. Some benefits as set forth herein will be provided on a pro-rated basis. Any part-time employee who works less than twenty (20) hours per week (Group C) is not eligible for benefits described in this Employee Handbook unless required by provision of an applicable state or federal law.

### **Section E-2: Paid Time Off**

If a full-time employee is working a base of forty (40) hours per week, a paid day off is considered to be eight (8) hours of paid time off. All employees eligible for paid time off who work less than forty (40) hours shall receive their paid time off on a pro-rated basis.

Department Heads, with prior notification to the Town Administrator or designee or the employee's Appointing Authority, may be granted time to attend professional conferences, conventions or short schools, or to visit other communities in the interest of the Town, for which proper appropriation has been made. At such time shall be considered ordinary work time and not paid leave for purposes of this section.

Such employees shall submit an itemized list of expenses for such travel together with paid receipts, which shall be the basis for any petitions or requests for reimbursement of expenses incurred. Reimbursements shall be issued to the applicant when approved by the Town Administrator or designee or Appointing Authority.

#### **Subsection E-2.1: Holiday Compensation**

All eligible Group A and B employees shall receive one day at their standard day rate for the following 11 holidays:

New Year's Day	Martin Luther King Day	President's Day
Patriot's Day	Memorial Day	Fourth of July
Labor Day	Columbus Day	Veteran's Day
Thanksgiving	Christmas Day	

- A. If such a holiday falls on a Saturday, the preceding Friday will be observed as a holiday. If the holiday falls on a Sunday, the holiday will be observed on the following Monday.

- B. To be eligible for holiday pay, each regular full-time employee must be in a paid status on the day of the holiday. The term "paid status," for purpose hereof, shall mean either normally scheduled to work on that day within the workweek, or on paid vacation leave or approved sick leave. Each eligible part-time employee shall be entitled to holiday pay only for those holidays that fall on a day on which the employee is regularly scheduled to work and is in a paid status. Holiday pay for a part-time employee shall be that employee's regular pay for the day on which the holiday occurs. Also, unless the employee is out on an excused absence, or provides a doctor's note, the employee must work the scheduled day before and after the holiday in order to receive holiday pay.
- C. Each eligible employee who is required to work on a holiday that falls within their normal week shall receive compensation for such work at straight time equal to the number of hours worked on the holiday.
- D. Department Heads shall be considered the same as all other personnel when working on a holiday, except that approval for pay in lieu of a day off may be obtained from the Town Administrator or designee as deemed appropriate.
- E. Regular Part-Time Communication Dispatchers required to perform work on New Year's Day, The Fourth of July, Thanksgiving, or Christmas Day shall receive 1½ times their normal rate of pay for the hours worked.

#### **Subsection E-2.2: Personal Time Compensation**

On each July 1, full-time employees will be credited annually with Twenty Four (24) hours paid personal leave, which may be taken during the following 12 months. Personal leave days for part-time employees (20 hours or more) shall be credited and granted in the same proportion that employee's service bears to full-time service.

A personal day can be used for a religious/secular holiday or as needed by the employee. Requests for a personal day must be submitted to the employee's Department Head at least one week prior to the requested leave day. Employees working under the direct supervision of a board, committee, or commission responsible for the employee's department shall submit the request to the board, committee, or commission at least one week prior to the requested leave day.

If use of personal time is due to an emergency or other urgent circumstances the employee is not required to provide one week of notice, but must provide as much notice as possible. The employee may be required to provide documentation of such circumstances.

Those employees with initial employment date between July 1st and October 31st shall be allotted three personal days in their first fiscal year of employment; those with initial employment dates between November 1st and the last day of February shall be allotted two personal days

and those with initial employment dates between the first day of March and April 30th shall receive one personal day for the remainder of that first fiscal year.

Any paid personal leave not taken by June 30th will be converted to sick time.

### **Subsection E-2.3: Vacation Compensation**

- A. The vacation year is from July 1st through June 30th inclusive. This is merely the time in which accrued vacation must be used. If an employee is eligible to move to the next higher vacation accrual level that accrual will occur on the anniversary date, not the beginning of the fiscal year.
- B. All eligible employees shall be credited on the last day of each calendar month with vacation leave accrued. Vacation time is accrued based on a full calendar month worked. Time off payroll (unpaid, non FMLA leave) is not considered time worked and therefore no vacation time will be credited to an employee who is off payroll for more than one workday during the calendar month. For each full calendar month of employment, employees will be credited with vacation pay as outline below:
  - (1) Level 1: For the first five (5) years of completed service, the employee is eligible to accrue a maximum of two weeks (80 hours) of vacation leave with pay each year. Accrual of vacation begins after the completion of six (6) months service, and is retroactive to the date of hire. Accrual is calculated as 6.666 hours of paid vacation leave per full month of employment.
  - (2) Level 2: After five (5) years and up to fifteen (15) years of completed service, the employee is eligible for three weeks (120 hours) of vacation leave with pay each year. Accrual is calculated as 10.0 hours of paid vacation leave per full month of employment.
  - (3) Level 3: After fifteen (15) years and up to twenty (20) years of completed service, the employee is eligible for four weeks (160 hours) of vacation leave with pay each year. Accrual is calculated as 13.333 hours of paid vacation leave per full month of employment.
  - (4) Level 4: After twenty (20) years of completed service, the employee is eligible for five weeks (200 hours) of vacation leave with pay each year. Accrual is calculated as 16.666 hours of paid vacation leave per full month of employment.
- C. Vacation pay for regular part-time Group B employees, shall be the average of his/her weekly pay for the 26 weeks worked immediately preceding the vacation.

- D. When a paid holiday occurs during the employee's regularly scheduled workweek while the employee is on authorized paid vacation, the paid holiday will not count as a vacation day.
- E. Eligible employees may carry over up to but not more than 2 weeks (80 hours) of vacation time from one fiscal year to another. All time over 2 weeks accrued and unused is forfeited by the employee at the end of the fiscal year.
- F. An employee who is eligible for vacation under this policy whose employment ends for any reason shall be paid, at their last rate of pay, an amount equal to the vacation that had been accrued but not used prior to such termination.
- G. With approval from the individual or group responsible for the employee's department, and from the Town Administrator or designee, employees with more than 15 years of service may request to work no more than one vacation week and receive vacation pay plus their regular pay for that week. In order to be considered, the request must be submitted to the Department Head no later than the 3<sup>rd</sup> Friday in April. The request will then be brought to the Town Accountant for confirmation of funds. After adequate funding has been confirmed, the request is sent to the Town Administrator or designee for evaluation and a decision. If an approval has been given, the employee will be notified and payment will be made in the last check of the fiscal year.
- H. Any employee that wishes to use any vacation leave, must have their request approved by their manager in writing before the time off is taken, with the exception that approval may be verbal if the time off taken will be less than two (2) hours in a workday. Time off requests in excess of three days, must be approved in writing at least two weeks before the time is taken.
- I. Employees may request approval of the Department Head and the Town Administrator or designee to use vacation time not yet earned. However, in order to be granted permission to use unearned vacation, the employee must have previously exhausted the allotment of his or her personal days for the fiscal year.

#### **Subsection E-2.4: Sick Time Compensation**

Each eligible employee shall be entitled to sick leave with pay to use for the employee's own personal illness and medical and dental appointments.

- A. Each regular full-time employee will earn sick leave at the regular rate of pay of the employee at the rate of 1 ¼ (10 hours) normal workdays of sick leave earned for each full calendar month of work, to a maximum accumulation of 1520 hours.

Each Group B employee will earn sick leave at the regular rate of pay of the employee on a pro-rata basis. The maximum accumulation is the same as that for a regular full-time employee. All eligible employees shall be credited on the last day of each calendar month with sick leave accrued.

- B. Any person returning to work after an absence in excess of three (3) consecutive workdays due to illness may be required by the Department Head to obtain a written statement from a doctor that the absent person is capable of performing all of their assigned duties.
- C. The Town may require a medical certificate at any time from a licensed medical practitioner. A medical certificate must state specifically that an employee is incapacitated and therefore cannot perform the duties and responsibilities as specified in the employee's job description.
- D. An employee who meets the criteria for Family Medical Leave or Massachusetts Maternity Leave will be placed on that leave in concurrence with their use of accrued paid leaves, including sick time.
- E. When an employee retires from the Town then that employee will receive 10% paid out to them of their accrued sick time in their last paycheck. If the employee resigns or is terminated then no sick time accrual will be paid out.

#### **Subsection E-2.5: Bereavement Time Compensation**

Pursuant to the Town of Sterling Personnel Policy Bylaw, regular full time and regular part time employees shall be given up to three (3) working days leave with a normal day's pay for the purpose of making arrangements and attending the funeral of a member of his/her immediate family. Immediate family is defined as spouse, mother, father, child, including step child, brother, sister, brother-in-law, sister-in-law, mother-in-law, father-in-law, grandparents, grandchild, aunt, uncle, niece, nephew, step parent, step sister, step brother, person residing in the same household or partner.

#### **Subsection E-2.6: Jury Duty Compensation**

Each Group A and Group B employee who is asked to either report for jury duty, sit on a trial, or a grand jury panel shall be paid by the Town an amount equal to the difference between the compensation paid the employee for a normal working period and the amount paid by the court, excluding any allowance for travel and lodging, for as long as the employee is required to participate in the trial.

### **Section E3: Leaves of Absence**

#### **Subsection E-3.1: Personal Leave of Absence**

Personal leave of absence for a specified period of time may be granted with the approval of the Department Head and the Town Administrator or designee, but shall be without compensation. Unless otherwise stated, personal leave of absences without pay shall be considered inactive

employment, where time spent on such leave does not count as service (time worked) for purposes of seniority, accrued vacation, accrued sick leave, pension, longevity and other benefits.

Once an employee has exhausted their Family Medical Leave or Massachusetts Maternity Leave, they must apply for a Personal Leave of Absence by submitting their request in writing to their Department Head prior to the expiration of statutory leaves. The Town Administrator must approve this leave or designee before granted to the employee.

Those employees on an approved leave of absence, which are removed from payroll, are responsible for remitting full health and other insurance premiums to the Treasurer within the requested period. Employees who are on a non-FMLA leave will be making COBRA payments. Employees who fail to make payments in the time required shall be removed from the Town's insurance plan.

### **Subsection E-3.2: Family and Medical Leave**

In accordance with the provisions of the Federal Family and Medical leave act of 1993 (FMLA), employees having completed at least twelve (12) months of continuous service and who have worked at least 1,250 hours during the preceding twelve (12) months, are entitled to take up to twelve (12) weeks of unpaid leave annually.

For the following reasons:

- (1) Birth of the employee's child
- (2) Placement with the employee of a child for adoption or foster care
- (3) Serious health condition that makes the employee unable to perform the functions of their job
- (4) Care for the employee's spouse, son, daughter, or parent who has a serious health condition
- (5) Employee's spouse, son, daughter, or parent is on covered active duty or has been notified of an impending call or order to covered active duty.

An employee eligible to take FMLA leave is entitled to take up to twenty-six (26) weeks of unpaid leave to care for a covered service member with a serious injury or illness. The employee must be the spouse, son, daughter, or next of kin of the service member. All earned leave (vacation and sick) must be taken as part of the FMLA.

While on FMLA, employees are responsible for the payment of all withholdings (i.e. insurance) in accordance with the Town's payroll schedule.

For further details, a copy of the Family and Medical Leave Act (FMLA) Policy is available in the Office of the Personnel Administrator.

### **Subsection E-3.3: Domestic Violence Leave Practice**

Consistent with all applicable laws, the Town is committed to the protection of employees from domestic violence by giving them the necessary support to deal with domestic violence issues. Any employee including all regular full-time, regular part-time, intermittent/seasonal/temporary

employees if the need arises for an employee to take needed time off to deal with a domestic violence issue can utilize this effort along with the Town's Employee Assistant Program (EAP).

#### **Subsection E-3.4: Maternity/Paternity Leave**

The Town grants maternity/paternity leave in accordance with the provisions of the Massachusetts General Law. All employees shall be granted eight (8) weeks of unpaid maternity/paternity leave without loss of seniority or benefits for the purpose of giving birth or adopting a child under the age of eighteen (18) or under the age of twenty-three (23) if the child is mentally or physically disabled. Upon expiration of the maternity/paternity leave, employees will be restored to the same or similar position.

In the event that the employee is eligible for both FMLA and maternity/paternity leave; that employee's leave will be charged to both forms of leave simultaneously. Employees requesting leave must provide notice to the Town Administrator, designee, or Appointing Authority at least two (2) weeks prior to the beginning of the anticipated leave.

Employees are entitled to use any accrued vacation, sick, and personal time during this period. If accrued vacation, sick, and personal leave extends beyond eight (8) weeks, employees will be entitled to use said leave up to a maximum of twelve (12) weeks in total. Employees are required to return to their positions when their leave expires if they are physically and mentally able or must provide a doctor's note stating their anticipated date of return.

#### **Subsection E-3.5: Small Necessities Leave**

The Small Necessities Leave Act allows each employee eligible for FMLA a total of 24 hours of unpaid leave during any twelve-month period, in addition to leave available under FMLA, to:

- (1) Participate in school activities directly related to the educational advancement of a son or daughter of the employee, such as parent-teacher conferences or interviewing for a new school;
- (2) Accompany the son or daughter of the employee to routine medical or dental appointments, such as check-ups or vaccinations; and
- (3) Accompany an elderly relative (an individual of at least 60 years of age who is related by blood or marriage to the employee, including a parent) of the employee to routine medical or dental appointments or appointments for other professional services related to the elder's care, such as interviewing at nursing or group homes.

If the necessity for leave is foreseeable, an employee must provide the Department Head with not less than seven days' notice of the need for leave. If the necessity for leave is not foreseeable, an employee shall provide such notice as is practicable. An employee taking leave for any of the aforementioned circumstances may substitute any accrued paid vacation and/or personal leave for any leave provided. Unlike the FMLA, the Small Necessities Leave may be taken intermittently or on a reduced leave schedule.

### **Subsection E-3.6: Military Leave**

- (a) **Purpose:** This section outlines the obligations and rights of Town employees who are reservists in a branch of the United States military, and those employees who are Members in the Army and National Guard, who or leave Town service to enter the Armed Forces
- (b) **Policy:** The Town is committed to complying with all applicable state and federal laws and regulations governing military leave, including initial active duty for training, inactive duty training (such as weekend drills), temporary and long-term active duty, and reinstatement following active duty. All requests for military leave should be reported to the Town Administrator or designee as soon practicable.

#### **Procedures**

##### *I. Leave for Training*

In accordance with G.L. c. 149, § 52A, all full-time and permanent part-time employees who are members of a state or federal military reserve unit shall be entitled to an unpaid leave of absence from a permanent position for the purpose of attending compulsory military training for up to seventeen (17) days per calendar year. Such absence for military training shall not affect the employee's right to receive normal vacation, sick leave, bonus, advancement and other advantages of employment.

##### *II. Leave for Active Duty*

An unpaid leave of absence shall be granted to full-time and permanent part-time employees called under orders for active duty with the state or federal armed forces for compulsory service.

##### *III. Resignation for Purposes of Joining Armed Forces*

Employees who are granted leave for active military duty, or who resign from Town service for the purpose of entering active duty in the Armed Forces of the United States, shall be entitled to certain re-employment rights with the Town, in accordance with federal law, as outlined below.

##### *IV. Inactive Duty for Training/Drills*

Employees who are reservists or members of the National Guard may not be denied retention in, or any other advantage of, employment due to military obligations. An employee who is required to report for inactive duty for training must inform his/her Department Head in the form of a written request for military leave.

##### *V. Active Duty for Training and Active Duty*

Initial active duty training (IADT), which occurs when an employee first signs up to be a member of the reserves or National Guard, shall be treated in the same manner as regular active duty for the purposes of re-employment rights.



Except for emergencies, employees called for active duty must request a military leave of absence, in writing, for the period of the leave, or may choose to resign. Employees who request a military leave of absence will be required to submit documentation to his or her Department Head as proof of active duty service as soon as is practicable.

Department Heads shall notify the Town Administrator or designee prior to approval of a military leave of absence or in the event of the resignation of a reservist/National Guard member under orders.

#### *VI. Reinstatement and Retention*

Pursuant to the Uniformed Services Employment and Reemployment Rights Act ("USERRA"), 38 USC§ 4301, et seq., an employee returning from military service is entitled to be re-hired by the Town within a reasonable period of time after applying for re-employment in accordance with the requirements set forth below.

Employees shall be entitled to re-employment following Active Duty service of not more than a cumulative of five (5) years. Any service on Initial Active Duty Training will not be included for the purposes of calculating the number of years in Active Duty Service.

The returning veteran or reservist must demonstrate that he or she remains qualified to perform the duties of the position. An employee who becomes disabled during military service and who cannot perform the duties of the otherwise appropriate job may be entitled to the nearest comparable job he or she is qualified to perform.

The period an individual has to make application for re-employment or report to work after military service is based on time spent on military duty. For service of less than 31 days, the service member must return at the beginning of the next regularly scheduled work period on the first full day after release from service, taking into account safe travel home plus an eight-hour rest period. For service of more than 31 days but less than 180 days, the service member must submit an application for re-employment within 14 days of release from service. For service of more than 180 days, an application for re-employment must be submitted within 90 days of release from service.

An employee returning from military service is entitled to be placed in the position that would have been attained but for the absence due to military service.

An employee returning to service is entitled to be retained on the job for at least one (1) year following his or her return, unless discharged for cause or reached for layoff in accordance with a collective bargaining agreement or civil service procedure. A reservist returning from (IADT) is entitled to be retained on the job for a minimum of six (6) months following his or her return, unless discharged for cause or reached for layoff in accordance with a collective bargaining agreement or civil service procedure.

The returning employee is entitled to same pay that he or she would have attained without the leave to perform military service. This includes cost of living adjustments and length of service increases (e.g. longevity) , but does not include merit increases based on satisfactory performance (e.g. step raises).

The employee is entitled to full credit for any job seniority lost because of military service. An employee's length of service therefore shall include: employment prior to military service; a reasonable time between leaving the job to enter military service and the date of entry into military service; the entire period of the military service; and the period between release from service and return to work. In some cases, the application of the seniority entitlement may be deferred until the employee has been re-employed for a period of time, in accordance with bargaining agreements and Civil Service Law.

The returning employee is entitled to retirement credit as if his/her employment had continued without interruption.

Reservists or National Guard members on Inactive Duty Training must report to work for the next regularly scheduled work period after training ends.

The Town shall not discriminate against a reservist or National Guard member because of his or her military obligations.

#### *VII. Health/Life Insurance*

Employees granted an unpaid military leave of absence for less than a complete calendar month may retain their health insurance at the current rate of contribution. Employees who do not receive a paycheck for a particular week must pay the employee's share of the premium directly to the Town during the week that the deduction would have been made had the employee been on the payroll.

Employees granted an unpaid military leave for more than one full calendar month shall be required to pay the full cost (100%) of the premium (both employee and employer share) directly to the Town, one month in advance of coverage, if they wish to continue to participate in the Town's health insurance plan. Employees on military leave or who resign from active duty military service may elect to remain on the Town's plan for up to 24 months.

*VIII. Notice of Rights*

The Town shall provide to employees covered by USERRA a notice of their rights, benefits, and obligations under USERRA. The Town may post the attached notice entitled "Your Rights under USERRA" where notices are customarily placed, mail it, or distribute it via electronic mail.

**Subsection E-3.7: Other Leave Provisions**

(a) Application of this Chapter

Regular employees, working for the Town one thousand forty (1,040) hours or more during a fiscal year are eligible to participate on a pro-rated basis in the following fringe benefit programs offered by the Town unless otherwise indicated.

(b) Civic Duty Leave

All employees entitled to vote at National, State, Municipal or Special Elections shall, when necessary, be allowed sufficient time off with pay to exercise this right.

(c) Effect of Leave

When any leave of absence without pay exceeds time worked or its equivalent in any month, an employee's length of service credit for all employment privileges shall cease until active employment is resumed.

(d) Extended or Emergency Leaves of Absence

The Board of Selectmen or Appointing Authority may grant extended or emergency leave of absence without pay for a period not to exceed sixty (60) days. Extended or emergency leave of absence may also be granted on the recommendation of the Department Head and the Town Administrator or designee or Appointing Authority.

Any employee requesting an extended or emergency leave of absence shall designate a specific period of time, which the leave of absence is to cover. In the event such leave of absence is requested for reasons of physical disability, it shall be required that the employee's physician submit to the Town an indication of the nature of the disability and the time for which such leave of absence is requested. While on extended leave of absence, employees are responsible for the payment of all withholdings (i.e. insurance, dependent care, etc.) in accordance with the Town's payroll schedule.

**Subsection E-3.8: Worker's Compensation**

Employees, injured on-the-job are protected against loss of income and medical expenses by provisions of the of the Massachusetts Workers Compensation Act. Employees receiving workers' compensation benefits may request to receive vacation, sick, or personal leave accrued at the time of injury to supplement workers' compensation benefits up to the amount of base wages the employee received each week before the injury occurred.

To preserve rights under the law, an employee must notify the Town immediately if involved in an on-the-job accident that results in personal injury. Injury report forms are available in the office of the Town Treasurer/Collector's office.

**a) Application of this section:**

To ensure that the employee gets prompt and appropriate medical treatment.  
To get the injured employee back to work in a modified or light duty capacity, if opportunities for light duty exist; and to provide cost containment for workers' compensation.

**b) When an injury occurs:**

The first action when an accident with an injury occurs is to provide prompt medical attention, at a local hospital or a town identified or approved physician. Immediately notify the Town Administrator or designee who functions as the Worker's Compensation Officer. The Department Head or designee should assist in obtaining information for filing the Employer's Report of Occupational Injury or Disease which should be received by the office of the Personnel Administrator no later than seven (7) days from the date that an accident has occurred.

**c) Maintain employee contact:**

During the recovery period, regular contact will be maintained with the employee by the Department Head or Appointing Authority. Medical updates from both the employee and the physician will be obtained by telephone or by personal visit.

**d) Identify alternative work assignments:**

The injured employee's immediate Department Head or designee has the responsibility for developing an alternative or modified job. This responsibility can vary based on the Department. Alternative productive work can be full or part-time, one time or ongoing.

Consider:

- Tasks not being done by anyone now
- Jobs being done only occasionally
- Tasks now being done, which if assigned to someone else, would free other employees to do other work

The Town will obtain a written statement from the Town's physician stating that the employee is capable of performing the tasks designated in the alternative work assignment. It is important that the doctor completely understands that alternative work assignment. The Department Head or designee is responsible for monitoring the injured employee's progress and coordinating with the Personnel Administrator's office to see that the employee returns to his/her regular job as quickly as possible, recognizing the nature of the injury, the likely recovery period and the work assignment to which the employee will return.

**e) Identify return-to-work date:**

Once the injury has occurred, helping the employee get back to work becomes the objective of the Appointing Authority, Department Head or designee, Personnel Administrator, the employee and physician. Before an employee is allowed to return to work, all employees are required to submit a Doctor's statement certifying that the employee is physically and mentally fit to perform all of the duties of their position with no restrictions.

## ***SECTION F: POLICIES AND STANDARDS***

### **Section F-1: Standards of Conduct**

All persons employed by the Town of Sterling that hold a position of public trust are expected to conduct themselves in a highly professional, ethical, and appropriate manner. Employees shall avoid any action that might create the impression of using public office for private gain, giving preferential treatment to any person or losing impartiality in conducting Town business. Employees are expected to adhere to conduct established by the laws of the Commonwealth, including Chapter 268A, the Commonwealth's Conflict of Interest Statute.

Town Officials and employees must comply with all applicable laws and regulations. The Town will not condone the activities of officials or employees who achieve results through violation of the law or unethical business dealings. The Town does not permit any activity that fails to stand the closest possible public scrutiny.

### **Section F-2: Suspension**

A Department Head, with approval of the Town Administrator or designee or Appointing Authority, may suspend an employee with pay (to be classified as "paid administrative leave") when conduct, whether on or off duty, is so serious that temporary removal from the work place is necessary pending the outcome of an investigation regarding possible disciplinary action up to and including termination. A suspension without pay greater than 5 days should only be done by the Appointing Authority after a hearing has been held with the employee. A suspended employee shall not be permitted to work on his/her normal day(s) off, nor use paid leave time, nor make up the time by working overtime in lieu of a payroll deduction for the period in suspension. The period of suspension shall be determined by the Appointing Authority, after a hearing with the employee. An employee may be suspended for the same reasons that an employee may be demoted or terminated.

### **Section F-3: Guidelines for Appropriate Conduct and Discipline**

It is the practice of the Town that disciplinary action should be taken only when warranted and with the utmost concern for the individuals involved. The disciplinary action that is appropriate for any particular misconduct is taken at the sole discretion of the Town.

Employees are expected to conduct themselves in a professional and respectful manner consistent with the high standards held by the Town. The list of infractions mentioned below, although not intended to be all-inclusive, illustrate some of the breaches of conduct that may result in disciplinary action, up to and including dismissal. The Town will generally follow the principles of progressive discipline. The Town however, reserves the right to initiate discipline at any level depending upon the severity of the incident(s) giving rise to the need for disciplinary action:

1. Falsifying employment or other Town of Sterling records;
  2. ~~Violating any Town of Sterling policies as set forth in this Handbook; or any section of Massachusetts General Law regarding municipal personnel;~~
  3. Establishing a pattern of absenteeism or tardiness, Employees who will be late or absent should notify their Department Head as soon as possible, but in no event later than one hour before their scheduled start time.
  4. Engaging in excessive, unnecessary or unauthorized use of Town of Sterling supplies or equipment, particularly, for personal purposes, including removing Town Property from the premises;
  5. Stealing property from co-workers or citizens of the Town of Sterling;
  6. Engaging in insubordination or refusal to follow the lawful directions of a person with management responsibility;
  7. Neglecting one's own job duties and responsibilities or refusing to perform work assigned;
  8. Misappropriation of Town funds or property; and
  9. Failure to provide exemplary customer service.
- A. When it is determined that discipline is necessary, it may take place using one of the methods listed below:

Verbal Reprimand: Employees will meet with their direct supervisor to discuss the issue and discuss ways for immediate improvement on the part of the employee. An employee will receive a written summary of the meeting, which will be kept in the employee's personnel file.

Written Reprimand: Management will meet with the employee and give him/her a formal written reprimand, which fully documents the infraction, and a copy will be placed in the employee's personnel file.

Suspension/Final Warning: A suspension is the temporary and involuntary separation of an employee from employment. The purpose of a suspension is to serve as a final warning to an employee that continued poor performance or misbehavior will result in dismissal. When possible, prior to the suspension the employee will receive a written summary, which will detail the reasons and terms for the suspension. If a suspension is not practical, an employee shall receive a Notice of Final Warning or a Last Chance Agreement.

Termination: Termination, whether in the form of a formal firing or a recommended resignation, is the permanent and involuntary separation of a person from employment with the Town. The employee will meet with the Department Head and the Town Administrator or designee to receive a written notice of dismissal, and the employee may be entitled to a hearing pursuant to Subsection F-3.1 below.

- B. Management reserves the right to determine at which step of the disciplinary process to begin. Options range from a verbal reprimand up to and including immediate dismissal. This decision will be based on the severity of the infraction. If necessary, employees may be put on administrative leave with pay pending an investigation.
- C. All employees may request a pre-termination meeting with the Town Director and the Town Administrator or designee at which they have an opportunity to present their case against being terminated.
- D. Employees involved in any step of the disciplinary process are not eligible for consideration for a salary increase until improvement has been documented and/or a period of time as defined by the Town Administrator or designee and Department Head has expired with no additional disciplinary actions.

#### Subsection F-3.1: Termination of Employment

A termination is the most serious discipline that the Town may impose and consists of discharge or separation for delinquency, misconduct, inefficiency, and violations of policy, inability to perform the work of the position, unbecoming conduct, or any other behavior that the Appointing Authority considers unacceptable. In circumstances where the appointing authority is a public body, it shall, at the request of the employee, convene a hearing pursuant to G.L. c.30A §21

(a) (1) prior to separating the employee from Town service. Where the appointing authority is an individual, the provision of the Open Meeting Law shall not be applicable.

Nothing in this section shall be construed as granting a right to a hearing when a person who has been appointed for a fixed term is not reappointed when the original term expires.

#### **Section F-4: Problem Resolution**

A grievance is defined as any complaint submitted in writing by an employee who is covered by this Handbook that the Town has violated an expressed provision of this Handbook. A grievance may not be filed, however, contesting any disciplinary sanction issued by the Town, including, but not limited to, discharge, suspension, warnings, reprimands, non-reappointment, and/or counseling sessions. If an employee believes that they have not been credited with or have otherwise lost wages or benefits to which they are entitled, he/she must present a grievance in accordance with the Town's grievance procedure.



#### **Subsection F-4:1: Grievance Steps**

Step I: Department Head: If the grievance based on the actions or conduct of the employee's Department Head, he/she should proceed directly to Step 2.

Any employee who believes that the Town has violated an expressed provision of this Handbook may appeal for relief from that condition. An employee must discuss the grievance initially with the Department Head or designee requesting relief from that condition within ten (10) working days of the occurrence or knowledge of the event(s) giving rise to the grievance. Then, if the matter is not settled, the employee should submit said grievance in writing to the Department Head requesting relief from that condition. The Department Head shall then meet with the aggrieved employee and shall respond in writing to the employee, within fourteen (14) working days of the meeting.

Step II: Town Administrator/Appointing Authority: If the grievance is not resolved at Step 1, the employee may file an appeal in writing with the Town Administrator or Appointing Authority within ten (10) working days of receipt of the Department Head's decision at Step 1. The Town Administrator or Appointing Authority shall, at their discretion or upon the employee's request, meet with the employee within a reasonable time after receipt of the employee's appeal. The Town Administrator or Appointing Authority shall reply in writing to the employee's grievance within ten (10) working days after a meeting with the employee is held, if any. The Town Administrator will send one (1) copy of the reply to the employee, one (1) copy to the Department Head and place one (1) copy in the employee's personnel file.

If the grievance is against the Town Administrator, the grievance should be brought to the Chair of the Board of Selectmen or his/her designee.

Step III: Board of Selectmen/Personnel Board: If the grievance is not settled at Step II, or within ten (10) working days of the deadline for the response of the Town Administrator or Appointing Authority, the employee may submit the grievance in writing to the Board of Selectmen and Personnel Board. The Personnel Board will investigate the grievance, and may meet with the Town Administrator, Appointing Authority, Department Head, the employee or any other party to gather information. The Personnel Board will submit findings and recommendations to the Board of Selectmen.

The Board of Selectmen will meet as soon as practicable to consider the grievance. The Board of Selectmen will hear testimony, and consider the report of the Personnel Board. The Board of Selectmen shall issue a determination, which shall be final and binding on all parties.

Step IV: Written Presentation: All complaints and their responses presented at any step of the grievance procedure shall be in writing and shall include the facts giving rise to this grievance and the signature and date of the appropriate employee or official. All written grievance information shall be placed in the personnel file of the aggrieved employee.

#### **Section F-5: Personal Appearance and Demeanor**

Employees are required to dress in attire appropriate to their position and to behave in a professional,

businesslike manner. As a Town employee, you are expected to use good judgment in your choice of work attire and to conduct yourself at all times in a way that best represents you and the Town of Sterling. Employees are also required to keep their work environment clean and orderly. Before departing at the end of the workday, employees should place all confidential materials in a secure drawer or cabinet.

#### **Subsection F-5.1: Physical Fitness**

It shall be the responsibility of each employee to maintain the standards of physical fitness required for performing the essential functions of his/her position in accordance with the position's job description. When a Department Head reasonably believes that the physical condition of an employee constitutes a hazard to persons or property, the Department Head may, with approval from the Town Administrator or designee, direct the employee to submit to a medical examination to be conducted by a licensed medical physician appointed by the Town at the Town's expense to determine the employee's continued fitness for full, unrestricted duty.

### **Section F-6: Treasurer Policies**

#### **Subsection F-6.1: Bonding**

Employees, as designated by the Treasurer/Collector or Town Administrator may be required to be bonded. Inability to secure or maintain a bond may be grounds for dismissal. The Town will bear the cost of any bond required.

#### **Subsection F-6.2: Cash Control**

The Treasurer/Collector has established cash control procedures for all employees required to handle cash. Failure to abide by procedures, shortages, and/or negligence is cause for discipline. Repeated incidents may result in termination.

The Town may conduct an audit of the management of cash at any time.

### **Section F-7: Conflict of Interest**

In accordance with Mass General Laws, Chapter 268A and the Standards Of Conduct Statement, no employee shall maintain an outside business or financial interest, or engage in any outside business or financial activity which interferes with their ability to perform job responsibilities or provide services to the Town. Employees will receive the Conflict of Interest Statute upon hire and every two years afterwards, and be expected to complete training in the Conflict of Interest Laws on a regular schedule as mandated by the Commonwealth.

#### **Subsection F-7.1: Political Activity**

Participation in political activities is to be carried on outside of normal working hours and shall be conducted in such a manner as to not adversely affect the performance of one's duties to the Town. Employees may not participate in the election of members of their governing body or appointing authority to any office, whether municipal, state or federal. (Example: The Town Administrator may not campaign for any candidates for Board of Selectmen) No political activities will be conducted on Town owned property by employees during working hours or in any work areas.

No employee, official or other person shall solicit orally or by letter, contributions or services for any political party, candidate or political cause from any employee during his/her hours of duty, service or work with the Town.

Nothing herein contained shall be construed to restrict the right of an employee to hold membership in and support a political party, to vote as he/she chooses, to express opinions on all political subjects and candidates, to maintain political neutrality, to attend political meetings after working hours or to campaign actively during off-duty hours in all areas of political activity.

It is considered to be in the best interest of all municipal employees that they shall not be pressured by direct or indirect political influences. As a safeguard against this, the behavior on the part of municipal employees shall be as follows:

- 2) All employees shall refrain from using their influence publicly in any way for or against any candidate for elective offices during work hours. They shall not circulate petitions or campaign literature for elective officials or be in any way concerned with soliciting or receiving any subscription, contribution, or political service from any person for any such elective official.
- 3) No officer or employee of the Town shall use their official authority or influence on any other officer or employee for the purpose of interfering with an election or a nomination for office or affecting the result thereof (except by casting their vote).
- 4) No officer or employee of the Town shall directly or indirectly coerce, attempt to coerce, command, or advise any other said officer or employee to pay, lend, or contribute any part of their salary, time, or compensation, or anything else of value to any party, committee, organization, agency, or person for political purposes during work hours.

#### **Subsection F-7.2: Solicitation and Distribution**

In addition to prohibitions regarding solicitation of political contributions defined in "Political Activity" above, Town employees are prohibited from soliciting other employees or members of the public for nonpolitical donations or contributions, of any kind, during work hours without the expressed written consent of the Board of Selectmen. General Laws c. 55, §13 prohibits paid employees, other than elected officials, from directly or indirectly soliciting or receiving any contributions or anything of value for any political purpose, at any time, during both working hours and non-working hours. No coercion of an employee to make contributions shall be permitted. Employees are prohibited from distributing non-work related literature to any other employees of the Town or members of the public during working hours, without the expressed written permission of the Board of Selectmen. Disregard of this practice may be cause for disciplinary action, which may result in termination.

### **Subsection F-7.3: Nepotism**

The Town's standards for employment decisions such as hiring, promoting, reappointing, evaluating, awarding salary, disciplining, and terminating employees are based upon an individual's qualifications for the position, ability, and performance. The Town attempts to avoid favoritism, the appearance of favoritism, and conflicts of interest in employment, and reserves the right to take action in accordance with existing employee agreements when relationships or associations of employees negatively affect the Town's mission and goals.

Employees and applicants for employment shall not be denied employment or advancement opportunities because of their status as a family or household member of another employee. However, no person shall be employed, promoted, or transferred to a permanent position in department where they would be the immediate supervisor of or receive direct supervision from the following:

- Spouse, domestic partner, or co-habitant;
- Child, including adopted, parent, in-laws and step- or half-parent;
- Grandchild, including adopted, in-laws and step- or half-grandparent;
- Sibling, including in-laws and step- or half-; or
- Any member of the employee's household whether or not related by blood or marriage.

In addition, a person serving in a supervisory position may not participate in decisions regarding hiring, reappointment, placement, evaluation, and rate of pay, salary increases, promotion, monetary awards, or other personal interest for a relative or household member employed by the Town, even when the supervisor is not in the direct line of authority.

Furthermore, to avoid the risk of sexual harassment or any appearance of impropriety, employees shall not be allowed to retain supervisory responsibilities over subordinate employees whom they are dating. A supervisor who becomes involved in a relationship covered by this policy shall notify the Town Director within ten (10) working days after the start of this relationship, the implementation of this policy, or the employee beginning work with the Town of Sterling. The Town Director will then document the relationship as deemed appropriate by the State Ethics Commission. All documentation will then be kept in the employee's file as mandated by State record keeping laws.

#### **Subsection F-7.4: Outside Employment**

Town employment shall be considered the primary employment and no regular full-time employee may engage in outside employment, which could interfere with the provision of Town services. Any employee included in the Town's Emergency Preparedness Plan who accepts outside employment under the terms of this section will make arrangements with the outside employer to be relieved from his/her outside duties if and when called for emergency service by the Town. Every employee granted permission to engage in outside employment under this rule shall respond immediately to any emergency call to duty by the Town whenever the Department Head or the Town Administrator determines his/her services to be necessary.

Employees sustaining injuries while engaged in outside employment are ineligible to receive benefits under the Town's worker's compensation plan because of the injury resulting from the outside employment. Equipment, facilities, vehicles or property of the Town shall not be used by employees for outside employment.

#### **Section F-8: Discrimination and Harassment**

The Town of Sterling intends to provide a work environment that is pleasant, professional and free from intimidation, hostility or other offenses, which might interfere with a positive, productive workplace culture. Harassment of any sort - verbal, physical, visual, and electronic - will not be tolerated, particularly against employees in protected classes. These classes include but are not necessarily limited to race, ethnicity, color, religion, gender, age, sexual orientation, national origin or ancestry, disability, medical condition, marital status, veteran status or any other protected status defined by law. Any employee feels that he or she has been subjected to any form of harassment, he/she may file a complaint with the Department Head, Town Administrator or designee or Chief of Police. Please see the separate handout regarding Harassment and Discrimination for further details regarding definitions, procedures, reporting methods and policies regarding Harassment and Discrimination.

#### **Section F-9: Americans with Disabilities Act**

It is the Town of Sterling's policy to adhere to the requirements of the Americans with Disabilities Act (ADA) and not discriminate against qualified individuals with disabilities in

regard to application procedures, hiring, advancement, discharge, compensation, training, or other terms, conditions, and privileges of employment. In implementing this policy, the Town of Sterling will be guided by the then-applicable definitions stated in the ADA or in case law construing the ADA, and applicable state and local law. In the event of any conflict between the definitions in the ADA and the definitions in this policy, the legal definitions will be the accepted definition.

## **Section F-10: Personal Information**

The Town of Sterling is committed to ensuring privacy and the protection of our employees' personal and confidential information. This information is available to only those employees with a legitimate business need to know. To protect this information, employees with access must:

1. Never e-mail or fax an entire social security or financial account number;
2. Secure all personal employee information in locked cabinets or storage areas;
3. When necessary, only destroy such documents by shredding or other methods of destruction approved by the Secretary of State's recordkeeping division.

### **Subsection F-10.1: Personnel Records**

The Town Administrator shall designate the Town Treasurer to be responsible for establishing and maintaining a centralized personnel record keeping system. The personnel record-keeping system shall contain such records as may be required by law and as necessary for effective personnel management. All employees and Department Heads shall comply with, and assist in, furnishing records, reports, and information as requested by the Town Administrator or designee. The centralized records constitutes the official Town record of personnel actions and shall be maintained in a secure, private, and fire-protected location.

Official employee personnel files are maintained in the Treasurer/Collector's office and are considered confidential. Only the employee, Appointing Authority and Department Head have access to an employee's personnel file information. It is understood that departments may keep their own employee personnel files. The official personnel file shall contain factual information regarding employment with the Town, including but not limited to an application form, the date an employee began work, wage rate, job performance, any on-the-job accidents, reports of any disciplinary action taken for infraction of rules, wage increases, recognition and awards an employee may receive and suggestions that the employee may have submitted to management. The Town shall notify an employee within ten (10) days of placing in the employee's personnel record any information that has been used or may be used to negatively affect the employee's qualification for employment, promotion, transfer, additional compensation, or indicate the possibility that the employee will be subject to disciplinary action.

To ensure that an employee's official personnel file is current, it is the responsibility of an employee to ~~notify the Treasurer of the name, address, telephone number, marital status, number of dependents, beneficiary designees, and emergency contacts.~~

Employee requesting to review the contents of his/her personnel file shall be made and complied with pursuant to G.L. c. 149, §52C. Corrections or comments on any material in an employee's file that he/she consider inaccurate or with which he/she disagrees may be submitted for inclusion in the file. Personnel files may not be taken outside the Treasurer/Collector's office.

The employee is requested to sign all materials in the employee file. Such signature does not necessarily indicate agreement with its content, but merely signifies that the employee has read the material to be filed. In instances where an employee refuses to sign such document(s), the Town Administrator, designee, or Department Head may indicate as such directly on the document

All medical information obtained by the Town relative to an employee shall be maintained in a separate, confidential file.

#### **Subsection F-10.2: Employee Personnel References**

Any requests for past or present employee reference based on employment with the Town shall be referred to the office of the Town Administrator. It is the practice of the Town to confirm only an employee's date of employment, position(s) held and salary attained. The Town may also provide a prospective employee with a copy of the employee's job description(s).

#### **Section F-11: Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

HIPPA describes how the Town may use and disclose your protected health information to carry out treatment, payment or health care operations and for other purposes that are permitted or required by law. It also describes your rights to access and control your protected health information. "Protected Health Information" is information about you, including demographic information, that may identify you and that relates to your past, present or future physical or mental health or condition and related health care services. Questions regarding HIPAA should be directed to the Town Administrator, who is also the Town's HIPAA Privacy Officer.

#### **Section F-12: Safety Policy**

All employees are expected to exercise a high degree of care for the safety of themselves, other employees, customers, vendors, the general public, the property of the Town and the property of others whenever they are working, whether on Town property or not. No employee may have in his or her possession on Town property or while working, any weapon, including, but not limited to firearms, explosives, or a knife, except for those weapons used exclusively in the performance of the employee's duties. Employees must wear seatbelts and may not use cell phones when operating Town owned or leased vehicles or while operating their personal vehicles on Town Business.

### **Subsection F-12.1: Accident Reporting**

It is essential that all workplace accidents that have resulted in an occupational injury or illness, regardless of the severity or lack thereof, be immediately reported to the employee's supervisor, who shall then in turn report the injury or illness to Town. Even minor injuries that require no immediate medical attention must be reported. Failure to report an accident may result in disciplinary action up to and including termination.

### **Section F-13: Non-Smoking Policy**

The Town of Sterling strives to create and maintain a safe and healthy working environment for all its employees. Therefore, consistent with Commonwealth of Massachusetts' law, smoking is strictly prohibited in all town buildings and vehicles. Department Heads are responsible for implementing this policy.

### **Section F-14: Drug and Alcohol Free Workplace**

The Town of Sterling has a responsibility towards employees to provide a safe and healthy working environment. This can be jeopardized by those who misuse alcohol and drugs. The following are examples of unacceptable conduct that may result in disciplinary action:

Drinking, having the odor of an alcoholic beverage on your breath, possessing or being under the influence of alcohol upon reporting to work or during working hours.

Using, selling, dispensing or possessing alcoholic beverages, at any time, on the Town's premises.

Using, or having present in the body illegal drugs or misuse of prescription drugs upon reporting for work, during working hours, or on the Town's premises during non-working hours.

The Town may inform its employees from time to time of the inherent danger of drug and alcohol abuse in the work place, as well as to inform its employees of the availability of counseling and the Town Employee Assistance Program (EAP). It advises its employees of the prospect of disciplinary action in case of violations. Additionally, employees are expected as a condition of employment not only to maintain a drug free work place but also to advise appropriate officials of unlawful drug and alcohol abuse violations in the workplace.

A copy of the Town's drug and alcohol policy is available on the Town's website.

In accordance with the Federal Department of Transportation Regulations, Title 49, CFR, Part 40 employees who are required to operate a vehicle weighing more than 26,000 pounds are required as a condition of employment to participate in the Town's random drug testing program.

A violation of this policy may be cause for disciplinary action up to and including termination.



## **Section F-15: Prohibited Cell Phone/PDA Usage While Operating a Motor Vehicle**

This policy about cellular phone usage applies to any device that makes or receives phone calls, leaves messages, sends text messages, surfs the Internet, or downloads and allows for the reading of and responding to email whether the device is Town-supplied or personally owned.

### Town Owned and Supplied Devices or Vehicles

An employee who uses a Town of Sterling-supplied device or a Town of Sterling-supplied vehicle is prohibited from using a cell phone, hands on or hands off, or similar device while driving, whether the business conducted is personal or Town-related. This prohibition includes receiving or placing calls, text messaging, surfing the Internet, receiving or responding to email, checking for phone messages, or any other purpose related to your employment; the business; our customers; our vendors; volunteer activities, meetings, or civic responsibilities performed for or attended in the name of the Town; or any other Town or personally related activities not named here while driving. Use of Town owned vehicles or devices for personal business is prohibited.

We recognize that other distractions occur during driving, however curbing the use of cell phones, while driving, is one way to minimize the risk of accidents for our employees. Therefore, you are required to stop your vehicle in a safe location so that you can safely use your cell phone or similar device. Engaging in Town of Sterling or personal business using a cell phone or similar device while driving either a Town supplied or personal vehicle while on Town business is prohibited.

## **Section F-16: Bulletin Boards**

Information of interest to employees is posted on bulletin boards in each Town building and on the official bulletin board maintained by the Town Clerk or designee. In addition, informational notices are distributed to Departments and, on occasion, material is enclosed with employee paychecks. Bulletin boards are for official use only and are not for personal use or solicitation. Various collective bargaining agreements may contain provisions for the use of bulletin boards for union announcements.

## **Section F-17: Emergencies**

### **Subsection F-17.1: Emergency Closings**

Whenever possible Town facilities will remain open during regular business hours during snowstorms and other inclement weather, and will be closed only during extreme conditions. Forecast or unforeseen emergencies or catastrophes including severe weather (i.e. hurricane, blizzard, floods), fires, power failures, acts of terrorism or military acts, criminal actions (i.e. bomb threats) and earthquakes can disrupt Town operations. In these cases, circumstances may require the closing of one or more work facilities or the altering of opening or closing schedules.

*Municipal buildings being used as emergency shelters are considered essential Town buildings and will not be closed although use may be restricted to emergency sheltering.*

In the event such an emergency occurs during regular business hours, the Town Administrator or Chairman of the Board of Selectmen will make a determination that the Town's facilities and services (other than Police, Fire and DPW) are closed and non-essential (i.e., clerical and administrative) personnel are not required to report to work.

Information about closures will be broadcast using the Code Red notification system, on the town's website at [www.Sterling.gov](http://www.Sterling.gov) and on Sterling Public Access Channel, when practicable. Department Heads are responsible for ensuring all staff members in their department are informed of facility closings or altered business hours or any other emergency measures.

In the event that such an emergency occurs during non-working hours, notice that any town facility including the Town Hall, Library, Senior Center, or Public Works Buildings, will be closed for any length of time, or business activities may have to be moved to a different location, will be broadcast as described above.

The Town encourages all employees to use their best judgment in making the decision to travel to work in inclement weather. If an employee is going to be delayed or will not be attending work that day, the employee is to contact their supervisor immediately to inform them of this event. An employee may use vacation, personal or sick time to cover this absence. If an employee does not have, or is not eligible for paid time off, they may either make up the time missed at a different time during that week, or not be paid for the time missed.

When operations of a work facility are officially closed due to emergency conditions, employees shall be paid for scheduled work hours. Employees who are not scheduled to work will not be compensated. Employees who were already scheduled to use accrued paid time off will use their accrued time off as planned. It is the responsibility of the Town's Emergency Management Director to maintain a list of "essential" employees.

#### **Subsection F-17.2: Emergency, Essential, and Non-Essential Personnel**

The Town's Emergency Management Director or designee shall initiate the phases of the Town's Emergency Disaster Preparedness Plan upon notice of onset of an emergency occurrence. Employees shall be designated as Essential, Non-Essential, or Emergency Personnel by the Town in accordance with the Town's Emergency Disaster Preparedness Plan. All employees shall continue to work in whatever capacity assigned by their Department Head or designee until such time as they are released to seek shelter, as determined by the Emergency Management Director or designated representative. Essential personnel shall be the last to be released prior to the event and shall be released on a case by case basis. Emergency personnel shall remain at their designated posts until released by their Department Head or designee in accordance with directions of the Emergency Management Director or designee.

As soon as the immediate threat or crisis to the Town has passed, the Town will contact all employees to provide instructions. Employees shall return to duty on or before the time given by their respective Department representative in accordance with the guidelines of the Town's Emergency Preparedness Plan.

#### **Section F-18: Authorization to Executive Contracts and Other Agreements**

No employees including Department Heads are authorized to execute contracts, grants, or any agreements on behalf of the Town unless authorized by the Board of Selectmen. All contracts or agreements to purchase goods or services are subject to Massachusetts procurement laws, and must be approved as to form and procedure by the Chief Procurement Officer.

#### **Section F-19: Use of Town Counsel**

All employees and members of Town Boards/Committees are required to obtain authorization from the Town Administrator for approval before contacting Town Counsel.

#### **Section F-20: No Strike Provision**

Since municipal employees provide a service to the public, which may be detrimental to public safety if interrupted, no municipal employees shall engage in any work stoppage, slowdown or strike. Any employee engaging in such work stoppage, slowdown, or strike shall be subject to immediate dismissal.

#### **Section F-21: Technology and Computer Use**

Due to constant advances in technology, it is not possible to list all types of technologies currently covered in all computer, communication, and information technology systems that are the property of the Town of Sterling or are used in the regular conduct of town's business or that are reimbursed to the employee by the Town of Sterling. Any employee abusing the privileges and authorized uses of this technology will be subject to disciplinary action deemed appropriate by the Town's disciplinary policy up to and including termination.

It is the intent of this section to ensure proper use of the Town's telecommunication systems which includes, but is not limited to, telephones, facsimile machines, computers, printers and other peripherals, programs, electronic mail, networks, web sites, Internet, cellular phones, radios and pagers.

The following computer use is absolutely forbidden:

1. To access any material which the Town considers pornographic;
2. To purchase goods or services for personal use, even if charged to the employee's personal credit card;

3. To transmit confidential information or knowingly accept receipt of any communication which is pornographic, obscene or which in the Town's opinion might contribute to a hostile work environment because it demeans individuals on the basis of race, sex, age, national origin, disability or some similar distinction.
4. To conduct personal business of any type.
5. To delete any work-related information.

**Important Notice:** The Town has the capacity to examine computer usage by individual employees in detail. Even though the item has been "deleted" and the employee cannot retrieve it does not mean that the Town cannot do so. It is also possible to generate a report of every Internet connection made by the user and of how much time was spent in each connection. Employees who use personal electronic equipment, including but not limited to cell phones, pagers, camera phones and computers on Town property or at work sites in Town for purposes which would be prohibited if conducted using Town equipment, will be considered to have violated this practice.

Further details, may be found in the Town's Information Technology Resources Policy that will be posted on the Town's web site and available in the Town Administrator's office.

#### **Section F-22: Use of Town Property**

Vehicles owned by the Town are issued to personnel employed in positions designated by the Town for the benefit and convenience of the Town in order to provide timely and appropriate service to its citizens. The vehicle is assigned, therefore to the position and not to the employee.

An employee shall not use Town property, equipment or vehicles except in the performance of official duties, nor permit its use by an unauthorized person, including family members, either on or off-duty except as otherwise approved by the Town Administrator or designee, Department Head or as specified in a collective bargaining or employment agreement. Town vehicles shall be assigned to Departments, individual position, or to a general car pool based on work responsibility as determined by the Town Administrator or designee or Appointing Authority. No Town-owned vehicle shall be driven outside the limits of the State of Massachusetts without the permission of a Department Head who shall obtain approval from the Town Administrator, designee, or Appointing Authority for a vehicle to be driven out of State.

Employees are responsible for items such as equipment, vehicles, supplies, credit cards, and keys etc., issued to them by the Town and which are in their possession or control. Employees must return all property belonging to the Town on or before their last day of work. The Town at its discretion may request a security deposit for use of Town property to be refunded to the employee upon when either the employee no longer works for the Town or the equipment is no longer used. The Town may take any action deemed necessary to recover town property.

### **Section F-23: Whistle Blower**

The Town encourages all employees to report information - without fear of actual or threatened discrimination, retaliation or reprisal - that they in good faith reasonably believe is evidence of gross misconduct; gross mismanagement; gross misuse or waste of public resources or funds; fraud; violations of law; abuse of authority in connection with the conduct of municipal operations or contracts; or a specific danger to health, security or safety.

The Town shall not recommend, take or threaten to take any disciplinary action having a negative or adverse impact on an employee or independent contractor because he or she:

1. Made or is perceived to have made a report
2. Sought remedy under applicable law after making a report
3. Participated in or cooperated with an inquiry or review by an authorized official of the Town or any other governmental entity with jurisdiction over the Town, regarding a matter that would constitute a report or a violation of this Whistle Blower provision, or with an enforcement or judicial proceeding arising from such an inquiry or review
4. Refused to obey an order that would violate law
5. Refused to work or authorize work when a hazardous safety or security condition presents an imminent danger of death or serious injury, and there was no reasonable alternative to refusal, there was not sufficient time to eliminate the danger in absence of refusal or the individual where possible, notified the Town of the condition and of the intent not to perform or authorize work.

### **Section F-24: Workplace Privacy**

Each employee must understand that personal items and personal communications received or stored on Town premises or Town equipment are not entitled to a guarantee of privacy. Management reserves the right to search Town property and documents in employee desks, lockers, file cabinets, etc.

### **Section F-25: Workplace Safety**

Safety is everyone's full-time job. The Town is concerned about the safety and welfare of all employees. No job is so important and no job effort is so urgent that the time cannot be taken to perform work safely. Being alert will help prevent accidents. Accident hazards or potential hazards should be reported immediately to a Department Head or to the Town Administrator or designee.

Employees are expected to cooperate with management on all safety and health procedures and properly use all equipment and devices provided for such purposes. The Town may provide additional safety training as needed or may post rules and regulations on the bulletin board. The Town will be as safe as employees make it.

The Town's general safety rules and regulations are as follows:

- Comply with Occupational Safety and Health Act standards and all rules, regulations and orders that apply to his or her own action and conduct.
- Report all unsafe conditions to a Department Head at once.
- Report all injuries, however slight, to a Department Head immediately.
- Good housekeeping throughout the facility is essential to safety, efficiency and satisfactory working conditions. Employees are expected to participate in helping to keep the facilities clean and neat.
- Employees shall not operate any equipment until they (1) have obtained the required operator's license where applicable; or (2) have been properly instructed by their Department Head and the Department Head has certified in writing that the employee may operate the equipment.
- Loose-fitting clothing (flowing ties, long sleeves, shawls, coats) or dangling jewelry shall not be worn around moving equipment or machinery.
- When making deliveries or on service calls, employees may not pick up hitchhikers, and with the exception of public safety employees (Police, Fire, DPW), they may not enter private homes unless or until they confirm that an adult (over 18 years old) is present.

#### **Section F-26: Workplace Violence**

The Town maintains a zero tolerance practice toward workplace violence, or the threat of violence, by any of its employees, customers, the public, or anyone who conducts business with the Town. It is the intent of the Town to provide a workplace that is free from the intimidation, threats or violent acts.

If an employee has been threatened by anyone, has sworn out a protection-from-abuse order against anyone, or has reason to fear assault or bodily harm from someone, the Department Head, Appointing Authority, or the Town Administrator or designee must be alerted. They should be provided with a description of the individual, and any other pertinent information (license plate number; color, make and year of vehicle; etc.) that would allow them to identify the individual. Employees who feel under imminent personal danger should dial 911 for immediate assistance.

Workplace violence includes but is not limited to harassment, threats, intimidation, coercion, physical attack, and/or property damage. A threat is the explicit or implicit expression of intent to cause physical or mental harm.

Prevention efforts include, but are not limited to informing employees of this practice, instructing employees regarding the dangers of workplace violence, communicating the sanctions imposed for violating this practice and providing a reporting hierarchy within which to report incidents of violence without fear of reprisal.

Each incident of violent behavior, whether the incident is committed by another employee or an external individual such as a customer, vendor, or citizen must be reported immediately to the

Department Head, the Town Administrator, or Appointing Authority who will assess and investigate the incident. Anyone witnessing an act of violence must inform the Town Administrator or designee, Department Head, and Appointing Authority of all reported incidents of workplace violence. If an employee of the Town is alleged to have committed an act of violence, he/she may be placed immediately on leave of absence with pay, pending the outcome of an investigation by the Town, at the Town's sole discretion.

In critical incidents in which a serious threat or injury occurs, emergency responders such as Police, Fire or Ambulance personnel must be promptly notified. As necessitated by the seriousness of the incident, the Town Administrator may assemble a Management Response Team that consists of staff from the affected Department and may include the Town's Substance Abuse Coordinator, Police Department and others as deemed necessary.

The Department Head or designee will orient all new employees to Departmental procedures regarding reporting incidents of violence, what to do if the employee is threatened or if an incident of violence actually takes place and dealing with the after effects of an act of violence.

Any employee who acts in good faith by reporting real or implied violent behavior will not be subjected to any form of retaliation or harassment. Any action of this type resulting from a report of violence must be reported to the appropriate management staff, and, when warranted, law enforcement, for investigation and decision regarding proper action.

## ***Town of Sterling Employment Policy***

### **General Policy Statement**

The policy of the Town of Sterling is to provide equal employment opportunity to all candidates for employment or appointment and administer working conditions, benefits, privileges of employment, training, advancement, upgrading, promotion, transfers and terminations of employment for all employees without regard to race, color, religion, national origin, sex or age, physical and/or mental handicap or sexual preference.

### **Covered Individuals**

Any individual whose services are retained by the Town of Sterling and any Board or Committee to provide goods and services, be they employees, consultants, contractors, or interns.

### **Definitions**

"Affirmative Action Officer" (AAO): The Human Resources Administrator or if the Human Resources Administrator cannot serve then the Town Administrator shall serve as the Affirmative Action Officer and shall be responsible for the implementation of this policy. The Affirmative Action Officer shall report directly to the Board of Selectmen, in all matters related to EO/AA related issues.

"Disabled Person", is any person who has a physical or mental impairment, which substantially limits one or more of such person's major life activities, has a record of such impairment, or is regarded as having such impairment.

### **Authority**

The Board of Selectmen enacts this policy.

It expands on the Town's EO/AA statement that forms the Preamble of the Personnel Bylaw.

### **Policy**

The policy of the Town of Sterling is to provide equal employment opportunity to all candidates for employment or appointment and administer working conditions, benefits, privileges of employment, training, advancement, upgrading, promotion, transfers and termination of employment for all employees without regard to race, color, religion, national origin, marital status, sex or age, physical and/or mental handicap or sexual preference. This policy applies to all employment decisions, and agreements and contracts for the procurement of goods and services.



### **Dissemination**

For the Plan to be effective, it is crucial that it be suitably disseminated. It shall be the responsibility of the Affirmative Action Officer to properly disseminate this policy to all Department Heads. It shall also be the responsibility of the Affirmative Action Officer to include the Policy in the Employee Handbook, and to post a copy of this Policy on all Town building Employee bulletin boards. The Affirmative Action Officer shall work with the chief procurement officer to incorporate a nondiscrimination clause in all purchase orders, leases, and contracts for the procurement of goods and services.

### **Enforcement Procedure**

Any individual who believes that he or she has been discriminated against due to an employment decision may bring his or her concern directly to the Affirmative Action Officer (AAO). If the complaint of discrimination is against the Affirmative Action Officer, then the employee may bring the complaint to the Chairman of the Board of Selectmen.

All complaints shall be provided in writing, signed and dated by the individual alleging the discrimination. The AAO or the Chairman of the Board of Selectmen who receives the complaint shall provide the complainant a written, signed and dated receipt of the complaint. Complaints of discrimination will be thoroughly investigated and a written report prepared within thirty (30) days of receipt. If the investigation reveals that discrimination did occur, the investigating officer shall immediately inform the Board of Selectmen and the Personnel Board in writing, and document the steps taken to remedy the situation.

### **Additional Remedies and Appeal Procedures**

In addition, an employee may also file a formal complaint with either or both of the government agencies listed below. The charging party must file a charge with the Massachusetts Commission Against Discrimination (MCAD) within 300 days from the date of the alleged discriminatory act. A complaint under federal law should be filed with the United States Equal Employment Opportunity Commission (EEOC) within 180 days from the date of the alleged discriminatory act. If the charge is also covered by the Massachusetts Commission Against Discrimination (MCAD), the filing 5 deadline may be extended to 300 days.

Massachusetts Commission Against Discrimination (MCAD)

Boston Office: One Ashburton Place, Room 601, Boston, MA 02108; (617) 994-6000

Worcester Office: City Hall, 455 Main Street, Room 100, Worcester, MA 01608; (508)799-8010

U.S. Equal Employment Opportunity Commission (EEOC)

John F. Kennedy Federal Building, 475 Government Center, Boston, MA

02203; (800)669-4000; (617)994-6000

## ***Town of Sterling-Harassment Policy***

### **I) Introduction**

It is the goal of the Town of Sterling to promote a workplace that is free of harassment and sexual harassment. Harassment and sexual harassment of employees occurring in the workplace or in other settings in which employees may find themselves in connection with their employment is unlawful and will not be tolerated by the Town. Further, any retaliation against an individual who has complained about harassment, sexual harassment, or retaliation against individuals for cooperating with an investigation of a harassment or sexual harassment complaint is similarly unlawful and will not be tolerated. To achieve our goal of providing a workplace free from harassment and sexual harassment, the conduct that is described in this policy will not be tolerated and we have provided a procedure by which inappropriate conduct will be dealt with, if encountered by employees. Because the Town of Sterling takes allegations of harassment or sexual harassment seriously, we will respond promptly to complaints of harassment or sexual harassment and where it is determined that such inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate. Please note that while this policy sets forth our goals of promoting a workplace that is free of harassment and sexual harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of either harassment or sexual harassment.

### **II) General Harassment**

#### **A. Definition**

The Town of Sterling takes any form harassment very seriously and regards any form of harassment as a possible violation of an individual's civil rights. Per definition, harassment is the willful and malicious engagement in a knowing pattern of conduct, or series of acts, directed at a specific person or group over a period of time that annoys, alarms, or torments that person or group, and causes that person or group to suffer harm or emotional distress. Harassment can be verbal or physical, and includes behavior that is perpetrated by telephonic or telecommunication devices, including but not limited to: e-mail, internet communications, and facsimile communications. In addition, the use of inappropriate terms, as well as signs or symbols of a racial, religious, ethnic, sexual, or gender-based bias, that are meant to de-humanize and cause pain to an individual or group, will be considered as a form of harassment as well.

#### **B. Complaints of Harassment**

The Town feels very strongly about the inappropriateness of harassment, and endorses proactive efforts to prevent harassment by regularly educating town officials, supervisors, employees, and volunteers about it. Any official, supervisor, employee, volunteer, visitor or citizen who witnesses or who feels that they are the victims of harassment, are strongly encouraged to report any knowledge of this kind of behavior to any member of the Harassment Team or any appropriate Town Officer or the Town Administrator.

Any Town Officer or Administrator who has been provided with this information should immediately convey this information to a member of the Harassment Team, who will subsequently inform the alleged victim of his/her options, which are:

- requesting that a member (or members) of the Harassment Team intervene on behalf of the alleged victim by addressing the incident(s) and/or offensive behavior(s) with the alleged harasser
- partaking in a joint meeting with the alleged harasser and a member (or members) of the Harassment Team to discuss the incident(s) and/or offensive behavior(s), and to identify strategies for correcting the situation
- filing an immediate and written grievance with the Human Resources Department to be referred to the Harassment Team.

The Harassment Team consists of, the Human Resources Administrator, the Chief of Police and the Town Administrator, who have received training in harassment and/or discrimination issues, and who understand all aspects of this policy, including the overriding need for confidentiality.

#### C. Investigation of Complaints of Harassment

A member (or members) of the Harassment Team will meet privately with any employee, individual, or group and where necessary the appropriate parent(s)/guardian(s) to hear a complaint, help resolve differences, or prevent a situation from escalating. Regardless of the option that an alleged victim pursues, it should be reiterated that any complaints will be guarded with strict confidentiality for both the alleged victim and the alleged harasser, and that information will only be shared on a <sup>11</sup> "need-to-know" basis. If any steps taken by the Harassment Team fail to resolve the issue, or if the alleged harassment and/or discrimination continues, or if there is any evidence of retaliation, the alleged victim, the individual communicating on behalf of the alleged victim (with his/her consent), and/or a member of the Harassment Team, shall submit an immediate and written grievance to the Human Resources Administrator. Upon receipt of a written grievance, the Human Resources Administrator will inform all necessary parties, including where necessary the appropriate parent(s)/guardian(s), that he/she has received a written grievance and that he/she will begin a formal investigation into the alleged conduct. During the Human Resources Administrator's investigation, the due process and confidentiality rights of the alleged victim and the alleged harasser will be honored. Upon completion of the investigation, the Human Resources Administrator will communicate his/her decision to the appropriate individual(s), and he/she will also render his/her decision in writing.

The Human Resources Administrator may publish an executive summary of his decision in order to preserve the confidentiality involved in the process.

#### D. Disciplinary Action

Where necessary and appropriate, disciplinary action will be imposed; it may include, but it is not limited to the following:

- Suspension
- Referral to legal and/or court authorities

- Mandatory counseling and/or educational programming
- Termination

### III) Sexual Harassment

#### A. Definition

By law, all employers must adopt a separate harassment policy that specifically addresses issues pertinent to sexual harassment or sexual discrimination. Therefore, this policy is being communicated in accordance with the law, and with the intent of developing and maintaining a safe and trusting work environment that not only enhances each individual's sense of self-confidence and self-esteem, but that ensures that individuals who are employed by or perform services for the Town of Sterling understand what sexual harassment and sexual discrimination is, know how to identify it, and are aware of the protocol for reporting such behavior.

In Massachusetts, the legal definition for sexual harassment is: sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

- a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or a basis for employment decision; or
- b) such advances, requests or conduct have the purpose or effect of unreasonable interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

To clarify this definition for this policy, the Town of Sterling declares that "sexual harassment" constitutes sexual advances whether they involve physical touching or not, requests for sexual favors, and other verbal or physical conduct of a sexual nature that has the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating, or sexually offensive environment; such as unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive comments, sexual epithets, written or oral references to sexual conduct, gossip regarding one's sexual activity, deficiencies or prowess, or displaying sexually suggestive objects, pictures, cartoons. Stated in another way, it is defined by the victim (who may be an employee or an individual performing services for the Town such as a contractor or volunteer), and the definition covers a range of behaviors, including but not limited to: sexual insults and name-calling, gossip, jokes, intimidation by words or actions, offensive touching, and pressure for sexual activity. Sexual harassment can also be subtle and ambiguous, or direct and overt, and it should be known that both males and females, both young and old, could be victims. To further define the term, "sexual harassment" can be other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to male or female workers.

Since sexual harassment is prohibited by both federal and state statutes, it should be understood that, like any form of harassment, it will not be tolerated, and that any person found to be guilty of sexual harassment will be subject to severe disciplinary consequences, as well as any applicable state or federal laws. Furthermore, in any case, where there is the

suspicion of the sexual abuse of an individual under the age of eighteen, officials,

supervisors, fellow employees or appropriate individuals should report such incidents to a member of the Harassment Team.

Additionally, all employees should take special note that retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated by this organization.

#### B. Complaints of Sexual Harassment

In light of the aforementioned, any employee or individual who feels that he/she is a victim of sexual harassment is encouraged to report the incident(s) to a manager, supervisor, administrator or a member of the Harassment Team. Any Town officer, administrator, or supervisor, who has been provided with this information, should immediately convey this information to the Human Resources Administrator or the Harassment Team, who will subsequently inform the alleged victim of his/her options, which include:

- requesting that a member (or members) of the Harassment Team intervene on behalf of the alleged victim by addressing the incident(s) and/or offensive behavior(s) with the alleged harasser
- partaking in a joint meeting with the alleged harasser and a member (or members) of the Harassment Team to discuss the incident(s) and/or offensive behavior(s), and to identify strategies for correcting the situation
- filing an immediate and written grievance with the Human Resources Administrator or the Harassment Team

The Harassment Team consists of the Human Resources Administrator, the Chief of Police, and the Town Administrator, who have received training in sexual harassment and/or sexual discrimination and sexual assault/abuse issues, and who understand all aspects of this policy, including the need for confidentiality. Regardless of the option that an alleged victim pursues, it should be reiterated that any complaints of sexual harassment will be guarded with strict confidentiality for both the alleged victim and the alleged harasser, and that information will only be shared on a "need-to-know" basis. If any steps taken by the Harassment Team fail to resolve the issue, or if the alleged sexual harassment continues, or if there is any evidence of retaliation, the alleged victim, the individual communicating on behalf of the alleged victim (with his/her consent), and/or a member of the Harassment Team, shall submit an immediate and written grievance to the Human Resources Administrator.

#### C. Investigation of Complaints of Sexual Harassment

Upon receipt of a written grievance, the Human Resources Administrator will inform all necessary parties, and where necessary the appropriate parent(s)/guardian(s), that he/she has received a written grievance and that he/she will begin a prompt formal investigation into the alleged conduct. During the Human Resources Administrator's investigation, the due process and confidentiality rights of the alleged victim and the alleged harasser will be honored. Upon completion of the investigation, the Human Resources Administrator will communicate his/her decision to the appropriate individual(s), and he/she will also render his/her decision in writing.

The Human Resources Administrator may publish an executive summary of his decision in order to preserve the confidentiality involved in the process.

D. Disciplinary Action

Where necessary and appropriate, disciplinary action will be imposed; it may include, but it is not limited to the following:

- Suspension
- Referral to legal and/or court authorities
- Mandatory counseling and/or educational programming
- Termination

In addition to the above, if a complainant believes that he/she has been subjected to sexual harassment, he/she may file a formal complaint with either or both of the government agencies set forth below. Using our complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies has a short time period for filing a claim (EEOC - 180 days; MCAD - 6 months).

The United States Equal Employment Opportunity Commission ("EEOC")  
John F. Kennedy Federal Building 475 Government Center Boston, MA  
02203 Tel. # (800) 669-4000

The Massachusetts Commission Against Discrimination ("MCAD")  
Boston Office: McCormack Building One Ashburton Place - Room 601, Boston, MA  
02108 Tel. # 617-994-6000  
Worcester Office: Worcester City Hall 455 Main Street - Room 100, Worcester, MA  
01608 Tel. # (508) 799-8010  
Springfield Office: State Office Building 436 Dwight Street - Room 220 Springfield, MA 01103  
Phone #: (413) 739-2145

## *TOWN OF STERLING*

### *Grievance Procedure under the Americans with Disabilities Act*

This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 ("ADA"). It may be used by anyone who wishes to file a complaint alleging discrimination based on disability in the provision of services, activities, programs, or benefits by the TOWN OF STERLING. The Town's Personnel Policy governs employment-related complaints of disability discrimination.

The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint will be made available for persons with disabilities upon request.

The complaint should be submitted by the grievant and/or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation to:

ADA Coordinator  
Town of Sterling  
Office of the ADA Coordinator I  
Park Street  
Sterling, Ma 01564

Within 15 calendar days after receipt of the complaint, the ADA COORDINATOR or designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days of the meeting, the ADA COORDINATOR or designee will respond in writing, and where appropriate, in a format accessible to the complainant, such as large print, Braille, or audio tape. The response will explain the position of the Town of Sterling and offer options for substantive resolution of the complaint.

If the response by the ADA COORDINATOR or designee does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the Town Administrator or designee.

Within 15 calendar days after receipt of the appeal, the Town Administrator or designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the Town Administrator or designee will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

The Town of Sterling will retain AU written complaints received by the ADA COORDINATOR or designee, appeals to the Town Administrator or designee, and responses from these two offices for at least three years.

# Town of Sterling

## *Drug-Free Workplace Policy*

### **General Policy Statement**

The Town of Sterling is committed to protecting the safety, health and well-being of all employees and other individuals in our workplace. We recognize that alcohol abuse and drug use pose a significant threat to our mission and goals. We have established a drug-free workplace program that balances our respect for individuals with the need to maintain an alcohol and drug-free environment. The Town encourages employees to voluntarily seek help with drug and alcohol problems.

### **Covered Individuals**

Any individual who conducts business for the Town, is applying for a position or is conducting business on the Town's property is covered by our drug-free workplace policy. Our policy includes, but is not limited to managers, supervisors, full-time employees, part-time employees, offsite employees, volunteers, interns, and Officials.

### **Applicability**

Our drug-free workplace policy is intended to apply whenever anyone is representing or conducting business for the Town. Therefore, this policy applies during all working hours, whenever conducting business or representing the Town, while on call, paid standby, while on Town property and at Town-sponsored events.

### **Prohibited Behavior**

It is a violation of our drug-free workplace policy to use, be under the influence of, possess, sell, trade, distribute, and/or offer for sale alcohol, a controlled or banned substance, illegal drugs or intoxicants while working, conducting business or representing the Town, on Town property or at Town-sponsored events; also, while on call or on paid standby.

### **Searches**

Entering the Town's property constitutes consent to searches and inspections. If an individual is suspected of violating the drug-free workplace policy, he or she may be asked to submit to a search or inspection at any time. Searches can be conducted of lockers, desks, workstations, vehicles and equipment.

### **Confidentially**

All information received by the Town through the drug-free workplace program is confidential communication. Access to this information is limited to those who have a legitimate need to know in compliance with relevant laws and management policies.



## **Policy Statement Relating to Town Employees**

### Notification of Convictions

Any employee who is convicted of a criminal drug violation must notify the Town in writing within five calendar days of the conviction. The Town will take appropriate action within 30 days of notification. Federal contracting or licensing agencies will be notified when appropriate.

### Drug Testing

To ensure the accuracy and fairness of our testing program, all testing will be conducted according to existing collective bargaining agreements. Where applicable or according to Substance Abuse and Mental Health Services Administration (SAMHSA) guidelines and will include a screening test; a confirmation test; the opportunity for a split sample. There will be a review by an appropriate appointee or Medical Review Officer, including the opportunity for employees who test positive to provide a legitimate medical explanation, such as a physician's prescription, for the positive result and a documented chain of custody. All drug- testing information will be maintained in separate confidential records.

For transportation services provided by COA via MART, we will adopt and abide by MART's FTA-regulated drug and alcohol program policies.

Each Town employee, as a condition of employment, may be required to participate in pre-employment testing, based upon the requirements of the position. Each employee will be required to participate in drug testing after an accident, upon reasonable suspicion, or upon return-to-duty and will be required to participate in follow-up testing upon selection or request of management.

The substances that will be tested for are but not limited to Amphetamines, Cannabinoids (THC), Cocaine, Opiates, Phencyclidine (PCP), Alcohol, Barbiturates, Benzodiazepines, Methaqualone, Methadone and Propoxyphene.

Testing for the presence of alcohol will be conducted by analysis of breath and blood.

Testing for the presence of the metabolites of drugs will be conducted by the analysis of urine, blood, and hair.

Any employee who tests positive will be terminated either immediately or where applicable in accordance with existing collective bargaining agreements

Unless contravened by the provisions of an existing collective bargaining agreement, an employee will be subject to the same consequences of a positive test if he/she refuses the screening or the test, adulterates or dilutes the specimen, substitutes the specimen with that from another person or sends an imposter or refuses to cooperate in the testing process in such a way that prevents completion of the test.

### Consequences

One of the goals of our drug-free workplace program is to encourage employees to voluntarily seek help with alcohol and/or drug problems. If, however, an individual violates the policy, the consequences are serious.

In the case of applicants, if he or she violates the drug-free workplace policy, the offer of employment can be withdrawn. The applicant may not reapply.

If an employee violates the policy, he or she will be terminated from employment either immediately or in accordance with the provisions of an existing collective bargaining agreement, where applicable.

#### Assistance

The Town of Sterling recognizes that alcohol and drug abuse and addiction are treatable illnesses. We also realize that early intervention and support improve the success of rehabilitation. To support our employees, our drug-free workplace policy:

- Encourages employees to seek help if they are concerned that they or their family members may have a drug and/or alcohol problem.
- Encourages employees to utilize the services of qualified professionals in the community to assess the seriousness of suspected drug or alcohol problems and identify appropriate sources of help.
- Ensures the availability of a current list of qualified community professionals.
- Offers all employees and their family member's assistance with alcohol and drug problems through the Employee Assistance Program (EAP).
- Allows the use of accrued paid leave while seeking treatment for alcohol and other drug problems.

Treatment for alcoholism and/or other drug use disorders may be covered by the employee benefit plan. However, the ultimate financial responsibility for recommended treatment belongs to the employee.

#### Shared Responsibility

A safe and productive drug-free workplace is achieved through cooperation and shared responsibility. Both employees and management have important roles to play.

All employees are required to not report to work or be subject to duty while their ability to perform job duties is impaired due to on- or off-duty use of alcohol or other drugs.

In addition, employees are encouraged to:

- Be concerned about working in a safe environment
- Support fellow workers in seeking help
- Use the Employee Assistance Program
- Report dangerous behavior to their supervisor

It is the supervisor's responsibility to:

- Inform employees of the drug-free workplace policy.
- Observe employee performance.
- Investigate reports of dangerous practices.
- Document negative changes and problems in performance.
- Counsel employees as to expected performance improvement.
- Refer employees to the Employee Assistance Program.
- Clearly state consequences of policy violations.

### Communication

Communicating our drug-free workplace policy to both supervisors and employees is critical to our success. To ensure all employees are aware of their role in supporting our drug-free workplace program:

- All employees will receive a written copy of the policy.
- The policy will be reviewed in orientation sessions with new employees.
- The policy and assistance programs will be reviewed at safety meetings.
- Employee education about the dangers of alcohol and drug use and the availability of help will be provided to all employees.
- Every supervisor will receive training to help him/her recognize and manage employees with alcohol and other drug problems.

## *Summary of the Conflict of Interest Law For Municipal Employees*

This summary of the conflict of interest law, General Law, Chapter 268A, is intended to help municipal employees understand how that law applies to them. This summary is not a substitute for legal advice, nor does it mention every aspect of the law that may apply in a particular situation. Municipal employees can obtain free confidential advice about the conflict of interest law from the Commission's Legal Division on our website, phone number, and address above. Municipal council may also provide advice.

The conflict of interest law seeks to prevent conflicts between private interests and public duties, foster integrity in public service, and promote the public's trust and confidence in that service by placing restrictions on what municipal employees may do on the job, after hours, and after leaving public service, as described below. The sections referenced below are sections of G.L. c. 268A.

When the Commission determines that the conflict of interest law has been violated, it can impose a civil penalty of up to \$10,000 (\$25,000 for bribery cases) for each violation. In addition, the Commission can order the violator to repay any economic advantage he gained by the violation, and to make restitution to injured third parties. Violations of the conflict of interest law can also be prosecuted criminally.

### **I. Are you a municipal employee for conflict of interest law purposes?**

You do not have to be a full-time, paid municipal employee to be considered a municipal employee for conflict of interest purposes. Anyone performing services for a city or town or holding a municipal position, whether paid or unpaid, including full- and part-time municipal employees, elected officials, volunteers, and consultants, is a municipal employee under the conflict of interest law. An employee of a private firm can also be a municipal employee, if the private firm has a contract with the city or town and the employee is a "key employee" under the contract, meaning the town has specifically contracted for his/her services. The law also covers private parties who engage in impermissible dealings with municipal employees, such as offering bribes or illegal gifts.

### **II. On-the-job restrictions.**

(a) Bribes. Asking for and taking bribes is prohibited.

(See Section 2)

A bribe is anything of value corruptly received by a municipal employee in exchange for the employee being influenced in his official actions. Giving, offering, receiving, or asking for a bribe is illegal.

Bribes are more serious than illegal gifts because they involve corrupt intent. In other words, the municipal employee intends to sell his office by agreeing to do or not do some

official act, and the giver intends to influence him to do so. Bribes of any value are illegal.

**(b) Gifts and gratuities.** Asking for or accepting a gift because of your official position, or because of something you can do or have done in your official position, is prohibited.

(See Sections 3, 23(b) (2), and 26)

Municipal employees may not accept gifts and gratuities valued at \$50 or more given to influence their official actions or because of their official position. Accepting a gift intended to reward past official action or to bring about future official action is illegal, as is giving such gifts. Accepting a gift given to you because of the municipal position you hold is also illegal. Meals, entertainment event tickets, golf, gift baskets, and payment of travel expenses can all be illegal gifts if given in connection with official action or position, as can anything worth \$50 or more. A number of smaller gifts together worth \$50 or more may also violate these sections.

*Example of violation:* A town administrator accepts reduced rental payments from developers.

*Example of violation:* A developer offers a ski trip to a school district employee who oversees the developer's work for the school district.

**Regulatory exemptions.** There are situations in which a municipal employee's receipt of a gift does not present a genuine risk of a conflict of interest, and may in fact advance the public interest. The Commission has created exemptions permitting giving and receiving gifts in these situations. One commonly used exemption permits municipal employees to accept payment of travel-related expenses when doing so advances a public purpose. Another commonly used exemption permits municipal employees to accept payment of costs involved in attendance at educational and training programs. Other exemptions are listed on the Commission's website.

*Examples where there is no violation:* A fire truck manufacturer offers to pay the travel expenses of a fire chief to a trade show where the chief can examine various kinds of fire-fighting equipment that the town may purchase. The chief fills out a disclosure form and obtains prior approval from his appointing authority.

*Example where there is no violation:* A town treasurer attends a two-day annual school featuring multiple substantive seminars on issues relevant to treasurers. The annual school is paid for in part by banks that do business with town treasurers. The treasurer is only required to make a disclosure if one of the sponsoring banks has official business before her in the six months before or after the annual school.

**(c) Misuse of position.** Using your official position to get something you are not entitled to, or to get someone else something he or she is not entitled to, is prohibited. Causing someone else to do these things is also prohibited. (See Sections 23(b) (2) and 26)

A municipal employee may not use her official position to get something worth \$50 or more that would not be properly available to other similarly situated individuals.

Similarly, a municipal employee may not use her official position to get something worth \$50 or more for someone else that would not be properly available to other similarly situated individuals. Causing someone else to do these things is also prohibited.

*Example of violation: A full-time town employee writes a novel on work time, using her office computer, and directing her secretary to proof read the draft.*

*Example of violation: A city councilor directs subordinates to drive the councilor's wife to and from the grocery store.*

*Example of violation: A mayor avoids a speeding ticket by asking the police officer who stops him, "Do you know who I am?" and showing his municipal*

- (d) Self-dealing and nepotism: Participating as a municipal employee in a matter in which you, your immediate family, your business organization, or your future employer has a financial interest is prohibited. (See Section 19)

A municipal employee may not participate in any particular matter in which he or a member of his immediate family (parents, children, siblings, spouse, and spouse's parents, children and siblings) has a financial interest. He also may not participate in any particular matter in which a prospective employer or a business organization of which he is a director, officer, trustee, or employee has a financial interest. Participation includes discussing as well as voting on a matter, and delegating a matter to someone else.

A financial interest may create a conflict of interest whether it is large or small, and positive or negative. In other words, it does not matter if a lot of money is involved or only a little. It also does not matter if you are putting money into your pocket or taking it out. If you, your immediate family, your business, or your employer have or has a financial interest in a matter, you may not participate. The financial interest must be direct and immediate or reasonably foreseeable to create a conflict. Financial interests that are remote, speculative or not sufficiently identifiable do not create conflicts.

*Example of violation: A school committee member's wife is a teacher in the town's public schools. The school committee member votes on the budget line item for teachers' salaries.*

*Example of violation:* A member of a town affordable housing committee is also the director of a non-profit housing development corporation. The non-profit makes an application to the committee, and the member/director participates in the discussion.

*Example:* A planning board member lives next door to property where a developer plans to construct a new building. Because the planning board member owns abutting property, he/she is presumed to have a financial interest in the matter. He/She cannot participate unless he provides the State Ethics Commission with an opinion from a qualified independent appraiser that the new construction will not affect his/her financial interest.

In many cases, where not otherwise required to participate, a municipal employee may comply with the law by simply not participating in the particular matter in which he/she has a financial interest and no need to give a reason for not participate.

There are several exemptions to this section of the law. An appointed municipal employee may file a written disclosure about the financial interest with his appointing authority, and seek permission to participate notwithstanding the conflict. The appointing authority may grant written permission if she determines that the financial interest in question is not so substantial that it is likely to affect the integrity of his services to the municipality. Participating without disclosing the financial interest is a violation. Elected employees cannot use the disclosure procedure because they have no appointing authority.

*Example where there is no violation:* An appointed member of the town zoning advisory committee, which will review and recommend changes to the town's by-laws with regard to a commercial district, is a partner at a company that owns commercial property in the district. Prior to participating in any committee discussions, the member files a disclosure with the zoning board of appeals that appointed him to his position, and that board gives him a written determination authorizing his participation, despite his company's financial interest. There is no violation.

There is also an exemption for both appointed and elected employees where the employee's task is to address a matter of general policy and the employee's financial interest is shared with a substantial portion (generally 10% or more) of the town's population, such as, for instance, a financial interest in real estate tax rates or municipal utility rates.

Regulatory exemptions. In addition to the statutory exemptions just mentioned, the Commission has created several regulatory exemptions permitting municipal employees to participate in particular matters notwithstanding the presence of a financial interest in certain very specific situations when permitting them to do so advances a public purpose. There is an exemption permitting school committee members to participate in setting school fees that will affect their own children if they make a prior written disclosure.

There is an exemption permitting Town Clerks to perform election-related functions even when they, or their immediate family members, are on the ballot, because clerks' election-related functions are extensively regulated by other laws. There is also an exemption permitting a person serving as a member of a municipal board pursuant to a legal requirement that the board have members with a specified affiliation to participate fully in determinations of general policy by the board, even if the entity with which he is affiliated has a financial interest in the matter. Other exemptions are listed in the Commission's regulations, available on the Commission.

*Example where there is no violation: A municipal Shellfish Advisory Board has been created to provide advice to the Board of Selectmen on policy issues related to shellfishing. The Advisory Board is required to have members who are currently commercial fishermen. A board member who is a commercial fisherman may participate in determinations of general policy in which he has a financial interest common to all commercial fishermen, but may not participate in determinations in which he alone has a financial interest, such as the extension of his own individual permits or leases.*

- (e) False claims. Presenting a false claim to your employer for a payment or benefit is prohibited, and also causing someone else to do so is prohibited. (See Sections 23(b) (4) and 26)

A municipal employee may not present a false or fraudulent claim to his employer for any payment or benefit worth \$50 or more, or cause another person to do so.

*Example of violation: A public works director directs his secretary to fill out time sheets to show him as present at work on days when he was skiing.*

- (f) Appearance of conflict. Acting in a manner that would make a reasonable person think you can be improperly influenced is prohibited. (See Section 23(b) (3))

A municipal employee may not act in a manner that would cause a reasonable person to think that she would show favor toward someone or that she can be improperly influenced. Section 23(b) (3) requires a municipal employee to consider whether her relationships and affiliations could prevent her from acting fairly and objectively when she performs her duties for a city or town. If she cannot be fair and objective because of a relationship or affiliation, she should not perform her duties. However, a municipal employee, whether elected or appointed, can avoid violating this provision by making a public disclosure of the facts. An appointed employee must make the disclosure in writing to his appointing official.

*Example where there is no violation: A developer who is the cousin of the chair of the conservation commission has filed an application with the commission. A reasonable*



*person could conclude that the chair might favor her cousin. The chair files a written disclosure with her appointing authority explaining her relationship with her cousin prior to the meeting at which the application will be considered.*

There is no violation of Sec.23 (b) (3).

- (f) Confidential information. Improperly disclosing or personally using confidential information obtained through your job is prohibited. (See Section 23(c))

Municipal employees may not improperly disclose confidential information, or make personal use of non-public information they acquired in the course of their official duties to further their personal interests.

## II. After-hours restrictions.

- (g) Taking a second paid job that conflicts with the duties of your municipal job is prohibited. (See Section 23(b) (1))

A municipal employee may not accept other paid employment if the responsibilities of the second job are incompatible with his or her municipal job.

*Example: A police officer may not work as a paid private security guard in the town where he serves because the demands of his private employment would conflict with his duties as a police officer.*

- (h) Divided loyalties. Receiving pay from anyone other than the city or town to work on a matter involving the city or town is prohibited. Acting as agent or attorney for anyone other than the city or town in a matter involving the city or town is also prohibited whether or not you are paid. (See Sec. 17)

Because cities and towns are entitled to the undivided loyalty of their employees, other people and organizations in relation to a matter may not pay a municipal employee if the city or town has an interest in the matter. In addition, a municipal employee may not act on behalf of other people and organizations or act as an attorney for other people and organizations in which the town has an interest. Acting as agent includes contacting the municipality in person, by phone, or in writing; acting as a liaison; providing documents to the city or town; and serving as spokesperson.

A municipal employee may always represent his own personal interests, even before his own municipal agency or board, on the same terms and conditions that other similarly situated members of the public would be allowed to do so. A municipal employee may also apply for building and related permits on behalf of someone else and be paid for

doing so, unless he works for the permitting agency, or an agency which regulates the permitting agency.

*Example of violation: A full-time health agent submits a septic system plan that she has prepared for a private client to the town's board of health.*

*Example of violation: A planning board member represents a private client before the board of selectmen on a request that town meeting consider rezoning the client's property.*

While many municipal employees earn their livelihood in municipal jobs, some municipal employees volunteer their time to provide services to the town or receive small stipends. Others, such as a private attorney who provides legal services to a town as needed, may serve in a position in which they may have other personal or private employment during normal working hours. In recognition of the need not to unduly restrict the ability of town volunteers and part-time employees to earn a living, the law is less restrictive for "special" municipal employees than for other municipal employees.

The status of "special" municipal employee has to be assigned to a municipal position by vote of the board of selectmen, city council, or similar body. A position is eligible to be designated as "special" if it is unpaid, or if it is part-time and the employee is allowed to have another job during normal working hours, or if the employee was not paid for working more than 800 hours during the preceding 365 days. It is the position that is designated as "special" and not the person or persons holding the position. Selectmen in towns of 10,000 or fewer are automatically "special"; selectman in larger towns cannot be "specials."

If a municipal position has been designated as "special," an employee holding that position may be paid by others, act on behalf of others, and act as attorney for others with respect to matters before municipal boards other than his own, provided that he has not officially participated in the matter, and the matter is not now, and has not within the past year been, under his official responsibility.

*Example:* A school committee member who has been designated as a special municipal employee appears before the board of health on behalf of a client of his private law practice, on a matter that he has not participated in or had responsibility for as a school committee member. There is no conflict. However, he may not appear before the school committee or the school Department, on behalf of a client because he has official responsibility for any matter that comes before the school committee. This is still the case even if he has recused himself from participating in the matter in his official capacity.

*Example:* A member who sits as an alternate on the conservation commission is a special municipal employee. Under town by-laws, he only has official responsibility for matters assigned to him. He may represent a resident who wants to file an application with the conservation commission as long as the matter is not assigned to him and he will not participate in it.

- (i) Inside track: Being paid by your city or town, directly or indirectly, under some second arrangement in addition to your job is prohibited, unless an exemption applies. (See Section 20)

A municipal employee generally may not have a financial interest in a municipal contract, including a second municipal job. A municipal employee is also generally prohibited from having an indirect financial interest in a contract that the city or town has with someone else. This provision is intended to prevent municipal employees from having an "inside track" to further financial opportunities.

*Example of violation:* Legal counsel to the town housing authority becomes the acting executive director of the authority, and is paid in both positions.

*Example of violation:* A selectman buys a surplus truck from the town DPW.

*Example of violation:* A full-time secretary for the board of health wants to have a second paid job working part-time for the town library. She will violate Section 20 unless she can meet the requirements of an exemption.

*Example of violation:* A city councilor wants to work for a non-profit that receives funding under a contract with her city. Unless she can satisfy the requirements of an exemption under Section 20, she cannot take the job.

There are numerous exemptions. A municipal employee may hold multiple unpaid or elected positions. Some exemptions apply only to special municipal employees. Specific exemptions may cover serving as an unpaid volunteer in a second town position, housing-related benefits, public safety positions, certain elected positions, small towns, and other specific situations. Please call the Ethics Commission's Legal Division for advice about a specific situation.

#### *IV* After you leave municipal employment. (See Section 18)

- (a) Forever ban: After you leave your municipal job, you may never work for anyone other than the municipality on a matter that you worked on as a municipal employee.

If you participated in a matter as a municipal employee, you cannot ever be paid to work on that same matter for anyone other than the municipality, nor may you act for someone else, whether paid or not. The purpose of this restriction is to bar former employees from selling to private interests their familiarity with the facts of particular matters that are of continuing concern to their former municipal employer. The restriction does not prohibit former municipal employees from using the expertise acquired in government service in their subsequent private activities.

*Example of violation:* A former school department employee works for a contractor under a contract that she helped to draft and oversee for the school department.

- (b) One year cooling-off period. For one year after you leave your municipal job you may not participate in any matter over which you had official responsibility during your last two years of public service.

Former municipal employees are barred for one year after they leave municipal employment from personally appearing before any agency of the municipality in connection with matters that were under their authority in their prior municipal positions during the two years before they left.

*Example:* An assistant town manager negotiates a three-year contract with a company. The town manager who supervised the assistant, and had official responsibility for the contract but did not participate in negotiating it, leaves her job to work for the company to which the contract was awarded. The former manager may not call or write the town in connection with the company's work on the contract for one year after leaving the town.

A former municipal employee who participated in general legislation on expanded gaming and related matters may not become an officer or employee or acquire a financial interest in, an applicant for a gaming license, or a gaming license, for one year after his public employment ceases.

- (c) Partners. Your partners will be subject to restrictions while you serve as a municipal employee and after your municipal service ends.

Partners of municipal employees and former municipal employees are also subject to restrictions under the conflict of interest law. If a municipal employee participated in a matter, or if he has official responsibility for a matter, then his partner may not act on behalf of anyone other than the municipality or provide services as an attorney to anyone but the city or town in relation to the matter.

*Example:* While serving on a city's historic district commission, an architect reviewed an application to get landmark status for a building. His partners at his architecture firm may not prepare and sign plans for the owner of the building or otherwise act on the owner's behalf in relation to the application for landmark status. In addition, because the architect has official responsibility as a commissioner for every matter that comes before the commission, his partners may not communicate with the commission or otherwise act on behalf of any client on any matter that comes before the commission during the time that the architect serves on the commission.

*Example:* A former town counsel joins a law firm as a partner. Because she litigated a

lawsuit for the town, her new partners cannot represent any private clients in the lawsuit for one year after her job with the town ended.

*This summary is not intended to be legal advice and, because it is a summary, it does not mention every provision of the conflict law that may apply in a particular situation. Our website, <http://www.mass.gov/ethics>, contains further information about how the law applies in many situations. You can also contact the Commission's Legal Division via our website, telephone, or by letter.*

# Town of Sterling

## *Computer Administration*

### ***Computer Usage Policy***

This document formalizes the policy for employees and officials of the Town of Sterling on the use of information technology (IT) resources including, but not limited to, computers, printers and other peripherals, programs, data, local and wide area networks, electronic mail (e-mail), telephones, cellular phones, pagers, "blackberry"-style devices, facsimile machines and the Internet. All IT resources operating within the Town Offices Building, in Departments, Boards and Commissions under the Town Administrator are the property of the Town of Sterling.

Users of such IT resources must be supplied with a copy of this Computer Usage Policy and must agree to comply with its provisions by signing the Employees Handbook Acknowledgment.

Use of the Town of Sterling's IT resources by any employee, contractor, consultant and/or volunteer ("user") shall constitute acceptance of the terms of this Policy and any such additional related policies that may be issued by the town.

Access and use of the Town's IT resources is intended for business related purposes, including communicating with coworkers and colleagues, and researching topics relevant to Town business. All existing state, federal and local laws and Town policies apply to your conduct while using Town IT resources, particularly those that govern intellectual property protection, sexual or other harassment, misuse of Town resources, privacy rights and confidentiality.

#### **User Responsibilities**

It is the responsibility of any person who uses Town IT resources to read, understand, and follow this policy. In addition, users are expected to exercise reasonable judgment in interpreting this policy and in making decisions about the use of Town IT resources. Any person with questions regarding the application or meaning of this policy should seek clarification from appropriate management. Failure to observe this policy may subject individuals to disciplinary action, including termination of employment.

#### **Acceptable Uses**

The Town of Sterling believes that the use of IT resources empowers users and makes their jobs more fulfilling by allowing them to deliver better services at lower costs. As such, employees and officials are encouraged to use IT resources fully in pursuit of their position's goals and objectives. This use may include accessing education and research tools and using properly licensed software.

Use of the Town's IT resources for personal use is allowed when limited and governed by the same of moderation as personal phone calls.

These tests include:

- There is no cost associated with the use.
- The use is moderate in time.
- The use does not interfere with the employee's work or the work of their co-workers.

Personal use must not interfere with the town's business needs or operation in any way and must not violate the law or

any other aspect of this policy.

#### Unacceptable Uses of Town IT Resources

Unless such use is reasonably related to a user's job, it is unacceptable for any person to use Town IT resources:

- in furtherance of any illegal act, including violation of any criminal or civil laws or regulations, whether local, state or federal
- for any political, religious or commercial activity
- to send discriminatory, threatening or harassing messages, whether sexual or otherwise
- to access or share sexually explicit, obscene, or otherwise inappropriate materials
- to infringe any intellectual property rights
- to gain, or attempt to gain, unauthorized access to any computer or network
- for any use that causes interference with or disruption of network users and resources, including intentional circulation of computer viruses or other harmful programs
- to intercept communications intended for other persons
- to misrepresent either the Town or a person's role in the Town
- to distribute chain letters
- to access online gambling sites
- to libel or otherwise defame any person
- to download any software or file in violation of copyright laws
- to download or install games or other programs for amusement/entertainment purposes.

Inadvertent or accidental browsing to inappropriate Internet sites or receiving inappropriate unsolicited e-mail shall not be considered an "*Unacceptable Use*" under this document. However, users should exercise caution when opening e-mails and refrain from responding to solicitation's from unknown senders. These activities can put the security of the network at risk.

#### **Data Confidentiality**

In the course of performing their jobs, Town employees and officials often have access to confidential or proprietary information, such as personal data about recognizable individuals or commercial information about business organizations. Under no circumstances is it permissible for an employee or official to acquire access to confidential data unless such access is required by their job or position. Under no circumstances may an employee or official circulate any confidential information that they have rightful access to, unless such distribution is required by their job or position.

#### **Copyright Protection**

Computer programs are valuable intellectual property. Software publishers can be very aggressive in protecting their property rights from infringement. In addition to software, legal protections can also exist for any information published on the Internet, such as the text and graphics on a web site. As such, it is important that users respect the rights of intellectual property owners. Users should exercise care and judgment when copying or distributing computer programs or information that could reasonably be expected to be copyrighted.

#### **Computer Viruses or Other Malware**

Users should exercise reasonable precautions in order to prevent the introduction of a computer virus into the local area or wide area networks. Virus scanning software should be used to check any software downloaded

from the Internet or obtained from any questionable source. In addition, executable files (program files that end in ".exe") should not be stored on or run from network drives. It is good practice to scan floppy disks and other portable data media or devices periodically to see if they have been infected.

### **Network Security**

Most desktop computers are connected to a local area network, which links computers with the Town servers. As such, it is critically important that users take particular care to avoid compromising the security of the network.

- Users should never share their passwords with anyone else, with the exception of the System administrator, and should notify Town Computer Administration if they suspect that their passwords have been compromised.
- Either users who will be leaving their PCs unattended for extended periods should log off the network or otherwise password protect access to the system.
- No user is allowed to access the Internet or other external networks via a modem unless they have received specific permission from Town Computer Administration personnel or the Town Administrator.
- Wireless Access Points or wireless network adapters are not allowed for use on the Town network unless specific permission from Town Computer Administration personnel or the Town Administrator has been granted.
- Telnet connections to external computers or network are prohibited without specific authorization of Computer Administration personnel.
- The use of ftp (File Transfer Protocol) or visits to ftp websites is restricted to updating approved applications in use by the Town of Sterling. Computer Administration personnel should be made aware of any updates performed.

### **E-mail**

Since the Town's e-mail addresses identify the Town of Sterling as the sender, users should consider e-mail as letters sent on an official letterhead. Users should ensure that all e-mails are written in a Professional and courteous tone. Although many users regard e-mail as being like a telephone in offering a quick, informal way to communicate, users should remember that e-mails could be stored, copied, printed or forwarded by recipients. As such, users should not write anything in an e-mail message that they would not feel just as comfortable putting into a memorandum or letter. In Massachusetts, e-mail is considered a public record.

- E-mail messages that do not reflect the official position of the Town of Sterling should contain the following disclaimer: "The opinions expressed here are my own and do not necessarily represent those of the Town of Sterling."
- When forwarding an e-mail message, a user may not modify the message without explicitly indicating the exact nature of the changes.



- Any e-mail message that is designated as privileged or private may not be forwarded without proof of consent from the originator.
- Notwithstanding the Town's right to retrieve and read any e-mail messages, e-mail should be treated as confidential by other employees and accessed only by the intended recipient. Employees are not authorized to retrieve or read an e-mail message that is not intended for them.
- Users should be aware that opening programs or files attached to an e-mail message might cause a computer virus that could infect the Town's IT resources with a virus or other detrimental or unwanted programs. Only open attachments from trusted sources.
- Users shall not broadcast messages to all employees via e-mail without permission from the Town Administrator.
- The Secretary of State's Office of the Commonwealth has determined that e-mail qualifies as "public records." Users should retain either a printed or a digital record of e-mail sent by or received through the Town's IT resources, in the same manner as paper records are kept and in accordance with the Commonwealth's Record Retention requirements.
- All e-mail must include the following message:

*This electronic message is confidential and intended for the named recipient only. Any dissemination, disclosure or distribution of the contents of this communication is unlawful and prohibited. If you have received this message in error, please contact by return e-mail or telephone (your phone number), and delete the copy you received.*

*Thank you.*

### **Portable Computers**

Some employees and officials are provided with portable computers to conduct business while not in the office or in the normal course of their job or position. The policies contained in this document apply to all portable computers owned or operated by the Town of Sterling. Personal use of portable computers owned or operated by the Town should be limited to the greatest extent possible.

Employees and officials using portable computers offsite are responsible for protecting the computer and any confidential data contained on it. Work on confidential business should not be conducted in a public place where others could see the work. Portable computers must be password protected to prevent unauthorized access to Town data. Any breaches of computer security or theft should be reported to the Computer Administration personnel immediately.

### **Remote Access Services**

VPN (virtual private network) services provide a means for remote secure access into the Town's computer network. Through this service, the user's system becomes an extension of the town network. As such, it is subject to all the laws and policies that apply to any directly attached system. When using remote connection services, a *system* will be allowed access to resources that are provided to Town systems only. Some restriction

may apply in certain circumstances. Remote access services are maintained as a best effort and are not guaranteed.

- Users who require remote access to the town network must get permission from their Department Head and the Computer Administration personnel.
- You are not permitted to share your credentials (username and password) with any person or persons for any reason and must ensure that unauthorized users are not allowed access to the Town's network. An account will be considered to be compromised if it is discovered to be used by anyone other than its owner. Compromised accounts are subject to deactivation or the removal of remote access rights.
- It is not permitted to "bridge" or connect a system using remote connection services to another foreign network.
- All systems using the remote connection services are required to be kept updated with current security-related patches.
- Remote connection services are to be used only for activity directly related to town business.
- Users must take all reasonable steps to make sure that their machine is physically secure when logged in, e.g. do not leave a machine unattended without activating a password protected screen.
- All computers connected to the town network via remote connection services must be running up to date anti-virus software and virus definitions.
- Only approved virtual private network clients will be used.
- Logins must NOT be automated on client systems i.e. users must not save passwords on the remote system.

### **Telephone Usage**

Telephones (including cellular phones) are provided for business use. Personal telephone calls may be permitted, but users should exercise good judgment in making such calls. Managers/Department Heads are responsible for monitoring their employees' telephone usage. Excessive usage for non-business purposes, as well as misuse of telephones, such as to make harassing or threatening calls, may result in discipline, up to and including termination from employment.

### **No Expectation of Privacy**

Town IT resources are the property of the Town of Sterling and are to be used in conformance with this policy. The Town retains the right to inspect any Town-owned or leased computer or electronic communication equipment, any data contained in such equipment, and any data sent or received by that equipment. The Town will exercise that right when reasonable and in pursuit of legitimate needs for supervision, control and the efficient and proper operation of the workplace. Users should be aware that appropriately authorized network administrators, in order to ensure proper network operations, routinely monitor network traffic, and/or access all files, including e-mail files and internet user history stored on any equipment. Use of Town IT resources constitutes express consent for the Town to monitor and/or inspect any data that users create or receive, any messages they send or receive, and any web sites that

they access.

All electronic files and documents originating from or passing through the Town's IT resources are considered to be the property of the Town of Sterling. In addition, all electronic information stored on public computers may be sought in the context of a public records request.

Employees are advised that:

Personal information sent from, received by, or stored on the town's equipment may, under certain circumstances and legal interpretations, be subject to disclosure under such a request and users should act accordingly.

### **Violations of Policy**

A violation or violations of this Policy may result in either the suspension or total loss of privilege to use the Town's IT resources. It may also result in disciplinary action being taken against an employee, up to and including termination from employment. Additionally, users shall be personally liable for any losses, costs or damages incurred by the Town related to violations of this Policy. Similarly, the illegal use of the Town's IT resources may result in referral to law enforcement authorities. Employees shall report violations of this Policy to their supervisor or the Town Administrator. Retaliation against another user for reporting a violation or violations of this Policy, including the use of e-mail or the Internet in a retaliatory manner, is strictly prohibited.

